

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES,) CR-09-00487-RMW
)
PLAINTIFF,)
) JUNE 18, 2012
VS.)
) VOLUME 6
ALBERT KE-JENG HU,)
)
DEFENDANT.) PAGES 766-917
)
_____)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: U.S. ATTORNEY'S OFFICE
BY: JOSEPH FAZIOLI
TIM LUCEY
150 S. ALMADEN BLVD, STE 900
SAN JOSE, CA 95113

FOR THE DEFENDANT: ATTORNEY AT LAW
BY: JERRY FONG
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OFFICIAL COURT REPORTER: SUMMER FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

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PLAINTIFF'S

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1 SAN JOSE, CALIFORNIA

JUNE 18, 2012

2 P R O C E E D I N G S

3 (WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HELD OUT
4 OF THE PRESENCE OF THE JURY:)

5 MR. FONG: GOOD AFTERNOON, YOUR HONOR.

6 JERRY FONG ON BEHALF OF DEFENDANT ALBERT
7 HU WHO IS PRESENT IN COURT.

8 MR. LUCEY: GOOD AFTERNOON, YOUR HONOR.

9 TIM LUCEY AND JOSEPH FAZIOLI ON BEHALF OF
10 THE UNITED STATES.

11 MR. FONG: YOUR HONOR, WE HAVE ONE MINOR
12 MATTER. I'M GOING TO HAND YOUR CLERK A SERIES OF
13 DOCUMENT THAT IS HAVE BEEN PREMARKED AS DEFENSE
14 EXHIBITS. THEY ARE IN ESSENCE A SERIES OF CHECKS
15 MADE PAYABLE TO THE NOBLE LAW GROUP AND THE LAW
16 FIRM OF PILSBURY WINTHROP.

17 THE GOVERNMENT AND I HAVE AGREED ON
18 CERTAINLY FOUNDATIONAL STIPULATIONS. I THINK WE
19 ARE IN AGREEMENT AS TO AUTHENTICITY AND BUSINESS
20 RECORD EXCEPTION, THOSE TWO FOUNDATIONAL
21 REQUIREMENTS ARE MET.

22 NOW I THINK THERE'S A DISPUTE OVER
23 WHETHER OR NOT GIVEN A FACT THAT THE AUTHENTICITY
24 AND BUSINESS RECORD EXCEPTION FOUNDATION
25 REQUIREMENTS HAVE BEEN MET, CAN THEY STILL NEVER

1 THE LESS COME IN ON, I BELIEVE IT'S A RELEVANCE
2 OBJECTION, RIGHT?

3 MR. FAZIOLI: YES, YOUR HONOR. THE
4 DOCUMENTS THAT THE DEFENSE WISHES TO INTRODUCE INTO
5 EVIDENCE ARE CHECKS THAT ARE APPARENTLY PAID TO THE
6 NOBLE LAW GROUP AND TO AN INDIVIDUAL NAMED JAY
7 GOULD WHO WAS A PARTNER AT PILLS BURY. AND THERE
8 MAY BE CHECKS DIRECTLY TO PILLS BURY.

9 WE DO NOT HAVE ANY -- WE DON'T HAVE ANY
10 ISSUE IN TERMS OF THE AUTHENTICITY OR BUSINESS
11 RECORDS OF THE CHECKS. WE WOULD NOT REQUIRE THE
12 DEFENSE TO CALL IN A WITNESS FROM THE BANK TO
13 ESTABLISH THEM AS BUSINESS RECORDS AND WE ARE
14 WILLING TO AGREE TO THE AUTHENTICITY OF THE CHECKS.

15 HOWEVER OUR UNDERSTAND SUGGEST THE
16 DEFENSE WOULD LIKE TO INTRODUCE THE CHECKS INTO
17 EVIDENCE THEN SIMPLY BASED ON THE CHECKS THEMSELVES
18 AND NOT ANY TESTIMONY EITHER BY MR. NOBLE OR
19 MR. GOULD AT PILSBURY OR BY THE DEFENDANT TO MAKE
20 AN ARGUMENT THAT THOSE CHECKS ARE SOMEHOW PROBATIVE
21 OF THE DEFENDANT'S STATE OF MIND IN REGARDS TO
22 LEGAL ADVICE THAT HE RECEIVED.

23 AND ALTHOUGH WE DON'T HAVE ANY ISSUES
24 WITH THE AUTHENTICITY OF THEM, WE HAVE SOME
25 CONCERNS THAT JUST A FREE FLOATING CHECK TO THE

1 NOBLE LAW GROUP STANDING BY ITSELF, IF THAT'S THE
2 ONLY PIECE OF EVIDENCE, MAY NOT QUALIFY, MAY NOT BE
3 APPROPRIATE -- MAY COME INTO EVIDENCE ABSENCE SOME
4 TESTIMONY REPORTED TO THE CHECK.

5 MR. LUCEY: AND YOUR HONOR, SO WE ARE
6 CLEAR FOR THE RECORD, ONE OF THE CHECKS IS ONE OF
7 THE GOVERNMENT'S COMPENDIUM EXHIBITS OF BANK
8 RECORDS.

9 SO IT IS IN FACT ALREADY IN EVIDENCE.
10 BUT I THINK THE GOVERNMENT WOULD SUBMIT THAT
11 CERTAINLY THERE'S EVIDENCE OF A PAYMENT BEING MADE,
12 BUT BEYOND THAT AS MR. FAZIOLI SAID, WE WOULD BE
13 CONCERNED ABOUT THE RELEVANCE AND AS WELL AS THE
14 ISSUES OF 403 RELATED TO ARGUMENT ABOUT THE INTENT
15 OF THE DRAFT OF THE CHECK OR RECEIPT OF THE CHECK
16 OR LEGAL ADVICE BEING CONVEYED BY THE CHECK

17 MR. FAZIOLI: AND ALSO TO ADD BRIEFLY TO
18 THAT. IT'S OUR UNDERSTANDING FROM HAVING
19 COMMUNICATED WITH PILSBURY THAT THEY WERE NOT IN
20 FACT THE ATTORNEYS FOR THE ASENQUA BETA THEY WERE
21 NOT THE ATTORNEYS FOR THE FIRESIDE LS FUND AND THAT
22 MR. NOBLE WAS NOT NECESSARILY AN EXPERT IN HEDGE
23 FUNDS.

24 SO WE HAVE CONCERNS THAT A FREE FLOATING
25 CHECK TO THE ENTITIES ABSENT SOME TESTIMONY THAT

1 GIVES SOME CONTEXT MAY NOT BE PARTICULARLY
2 PROBATIVE OR RELEVANT AS TO THE DEFENDANT'S STATE
3 OF MIND.

4 THE COURT: WHO IS THE NOBLE LAW GROUP?

5 MR. FONG: YOUR HONOR, THE NOBLE LAW
6 GROUP IS A LAW FIRM HEADED BY A GENTLEMAN BY THE
7 NAME OF JONATHAN NOBLE. HE'S A PRACTITIONER IN PEN
8 ANYONE SUE LA, CURRENTLY WITH THE LAW FIRM IN MENLO
9 PARK.

10 YOUR HONOR, THE NOBLE'S LAW FIRM'S NAME
11 APPEARED IN THE ASENQUA BETA PRIVATE PLACEMENT
12 MEMORANDUM. AND THE PILSBURY LAW GROUP OR LAW FIRM
13 I SHOULD SAY, THAT NAME APPEARED IN THE FIRESIDE
14 PRIVATE PLACEMENT MEMORANDUM.

15 YOUR HONOR, I CERTAINLY WILL NOT BE
16 ARGUING THAT SPECIFIC TYPE WAS WORK WERE DONE JUST
17 BECAUSE PAYMENTS WERE MADE.

18 I JUST MERELY WANTED TO SHOW TO THE JURY
19 THAT TWO OF THE LAW FIRMS MENTIONED DID HAVE A
20 CONNECTION TO MR. HU. THAT'S ALL I'M GOING TO
21 ARGUE.

22 THE COURT: ONE OF THE MISREPRESENTATIONS
23 THAT'S ALLEGED IS NOT WITH RESPECT TO THE NOBLE LAW
24 GROUP, I DON'T THINK.

25 MR. FONG: NO, YOUR HONOR. I UNDERSTAND

1 THAT. BUT --

2 THE COURT: IS THAT CORRECT?

3 MR. FONG: I DON'T BELIEVE ANYBODY HAS
4 TESTIFIED AS TO THE NOBLE LAW GROUP. BUT
5 YOUR HONOR OBVIOUSLY THE IDEA IS THAT THE
6 GOVERNMENT HAS BEEN TRYING TO CONVEY THAT MR. HU
7 HAS PRETTY MUCH -- HAD PRETTY MUCH LIED ABOUT
8 EVERYTHING IN THE PPM'S AND I WANT TO SHOW THAT HEY
9 WAIT A MINUTE, THERE IS ACTUALLY ANOTHER SIDE OF
10 THE COIN. THAT'S ALL I WOULD BE DOING WITH THAT.

11 AND AGAIN, I'M NOT GOING TO BE ARGUING
12 THAT THIS SHOWS A PARTICULAR TYPE OF WORK WAS DONE
13 FOR A PARTICULAR ENTITY OR DOCUMENT. I JUST SIMPLY
14 WANT TO SHOW THAT YES --

15 THE COURT: I UNDERSTAND WHAT YOU WANT TO
16 DO.

17 MR. FONG: I'M SORRY TO BE LONG WINDED,
18 YOUR HONOR.

19 AND ALSO GIVEN THE FACT THAT THE FIRST
20 CHECK THE COURT IS LOOKING AT 602, IT'S ALREADY
21 PART -- IT'S ALREADY BEEN ADMITTED INTO EVIDENCE.
22 THIS WAS SIMPLY --

23 THE COURT: I WILL LET YOU OFFER THEM BUT
24 I STRESS YOU'VE GOT TO BE VERY CAREFUL ABOUT
25 ARGUMENT.

1 MR. FONG: THAT'S FINE, YOUR HONOR.

2 THE COURT: OKAY. I'M READY TO GO.

3 MR. FONG: YES.

4 MR. LUCEY: CAN THE COURT GIVE A LITTLE
5 GUIDANCE AS TO THE POSSIBLE LIMITS ON ARGUMENT.
6 PARTICULARLY WITH THE PILLS BURGEE INFORMATION --

7 THE COURT: HE CAN ARGUE THAT A CHECK ON
8 THE ASENQUA ACORN LLC, CHECK WAS WRITTEN TO THE
9 NOBLE LAW GROUP FOR THE AMOUNT AND THE DATE. SO HE
10 CAN BASICALLY TAKE WHAT'S ON THE FACE OF THE CHECK.
11 BUT THAT'S ABOUT IT.

12 MR. FAZIOLI: ALL RIGHT. THANK YOU,
13 YOUR HONOR.

14 MR. FONG: THANK YOU, YOUR HONOR.

15 MR. LUCEY: YOUR HONOR, ONE OTHER
16 HOUSEKEEPING MATTER BEFORE WE GET STARTED.

17 THE GOVERNMENT EXPECTS TO CALL AGENT FINE
18 AS OUR FIRST WITNESS THIS AFTERNOON. THIS IS THE
19 ISSUE OF CHARGES WE DISCUSSED PREVIOUSLY. I TALKED
20 TO MR. FONG BEFORE COURT TODAY. HE HAS NO
21 OBJECTION TO US SUPERVISING THE CHARTS INTO
22 EVIDENCE. EXHIBITS 263 TO 272. AND THERE'S NO
23 ISSUE WITH REGARD TO THE EVIDENCE. THE ONLY OTHER
24 ISSUE WE HAVE TO COVER WITH YOU YOUR HONOR, AS YOU
25 KNOW, WE HAD PROPOSED HAVING BOTH ON THE SCREEN

1 THEN HARD COPIES FOR EVERYONE IN THE COURTROOM. WE
2 HAVE THOSE AVAILABLE IF THE COURT IS SO INCLINED

3 THE COURT: THAT'S FINE.

4 MR. FAZIOLI: THANK YOU, YOUR HONOR.

5 MR. FONG: I HAVE NO OBJECTIONS.

6 (WHEREUPON, THE FOLLOWING PROCEEDINGS
7 WERE HELD IN THE PRESENCE OF THE JURY:)

8 THE COURT: PLEASE BE SEATED.

9 WELCOME BACK, EVERYBODY, AND I THINK WE
10 ARE READY TO GO.

11 MR. LUCEY: YES, YOUR HONOR. THE
12 GOVERNMENT NOW CALLS SPECIAL AGENT GREG FINE TO THE
13 STAND.

14

15 **GREGORY FINE,**
16 BEING CALLED AS A WITNESS ON BEHALF OF THE
17 PLAINTIFF, HAVING BEEN FIRST DULY SWORN, WAS
18 EXAMINED AND TESTIFIED AS FOLLOWS:

19

20 THE WITNESS: I DO.

21 THE CLERK: FOR THE RECORD PLEASE STATE
22 YOUR FULL NAME AND SPELL YOUR LAST NAME.

23 THE WITNESS: MY NAME IS GREGORY FINE.

24 LAST NAME IS SPELLED F-I-N-E.

25

DIRECT-EXAMINATION BY MR. LUCEY

BY MR. LUCEY:

Q. GOOD AFTERNOON, SIR.

A. GOOD AFTERNOON.

Q. WHERE DO YOU CURRENTLY WORK?

A. AT THE FEDERAL BUREAU OF INVESTIGATION.

Q. HOW LONG HAVE YOU WORKED WITH THE FEDERAL
BUREAU OF INVESTIGATION?

A. FIVE AND A HALF YEARS.

Q. WHAT IS YOUR TITLE?

A. SPECIAL AGENT.

Q. WHAT OFFICE ARE YOU BASED?

A. THE SAN JOSE OFFICE.

Q. AND SPECIAL AGENT FINE, BEFORE WE GO FURTHER
INTO YOUR WORK, BACKGROUND COULD YOU TELL US
BRIEFLY WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I HAVE A BACHELOR'S DEGREE OF COMPUTER SCIENCE
FROM THE UNIVERSITY OF MARYLAND.

Q. GOING BACK TO YOUR WORK EXPERIENCE AT THE FBI,
AGENT FINE, ARE YOU ASSIGNED TO A PARTICULAR GROUP
WITHIN THE SAN JOSE OFFICE?

A. I AM.

Q. WHAT GROUP IS THAT?

A. THE WHITE COLLAR CRIME SQUAD.

1 Q. HOW LONG HAVE YOU BEEN BASE INDEED THAT
2 PARTICULAR SQUAD?

3 A. FIVE AND A HALF YEARS.

4 Q. GENERALLY THE LENGTH OF YOUR TENURE WITH THE
5 FBI?

6 A. YES.

7 Q. WHAT ARE YOUR RESPONSIBILITIES GENERALLY AS A
8 SPECIAL AGENT WITH THE FBI?

9 A. TO INVESTIGATE FEDERAL CRIMES.

10 Q. HAVE YOU HAD ANY EXPERIENCE PREVIOUSLY TO THIS
11 MATTER BEFORE THE COURT IN INVESTIGATING INVESTMENT
12 FRAUD?

13 A. YES.

14 Q. COULD YOU SPEAK GENERALLY ABOUT THAT
15 EXPERIENCE, WHAT KIND OF MATTERS HAVE YOU HANDLED?

16 A. REGARDING INVESTMENT FRAUD SPECIFICALLY.

17 Q. YES, SIR.

18 A. I PROBABLY WORKED TEN TYPES OF CASES RELATED
19 TO VARIOUS TYPES OF FRAUD RELATED TO INVESTMENT.

20 Q. NOW SPECIAL AGENT FINE, I WANT TO TALK TO YOU
21 ABOUT SOME FINANCIAL DATA IN THIS CASE IN
22 CONNECTION WITH THE DEFENDANT. HAVE YOU REVIEWED
23 DOCUMENTS IN CONNECTION WITH YOUR TESTIMONY HERE
24 TODAY?

25 A. YES.

1 Q. DID THERE COME A TIME WHEN YOU WERE ASKED TO
2 PREPARE CHARTS DEMONSTRATIVES IN CONNECTION WITH
3 YOUR TESTIMONY TODAY?

4 A. YES.

5 Q. AND DID YOU IN FACT REVIEW DOCUMENTS IN
6 CONNECTION WITH THE PREPARATION OF THOSE CHARTS?

7 A. YES.

8 Q. GENERALLY SPECIAL AGENT FINE WHAT KIND OF
9 DOCUMENTS DID YOU REVIEW IN CONNECTION WITH THE
10 PREPARATION OF THOSE CHARTS?

11 A. I REVIEWED BANK RECORDS WHICH WOULD INCLUDE
12 THE ACCOUNT STATEMENTS, WIRE TRANSFERS, CANCELLED
13 CHECKS. ADDITIONALLY, I REVIEWED INVESTOR RECORDS
14 WHICH WOULD INCLUDE THE DOCUMENTS I RECEIVED FROM
15 INVESTORS. SO THEY ARE INVESTMENT STATEMENTS AS
16 WELL AS THE PRIVATE PLACEMENT MEMORANDUMS AND
17 SUBSCRIPTION BOOK LETS.

18 Q. AND THAT GENERALLY SUMMARIZES THE GENERAL TYPE
19 OF DOCUMENTS YOU REVIEWED?

20 A. YES.

21 Q. NOW AGENT FINE, DO YOU RECALL THAT REALLY LONG
22 STIPULATION THAT MY COLLEAGUE MR. FAZIOLI READ AT
23 THE OUT SET OF THE TRIAL BACK A COUPLE WEEKS AGO?

24 A. I DO.

25 Q. AND DO YOU RECALL THAT IT REFERENCED EXHIBITS

1 220 THROUGH 252, 257, AS WELL AS 276 THROUGH 278?

2 A. YES.

3 Q. AND DO YOU RECALL THAT THOSE, ALL THOSE
4 EXHIBITS WERE THERE AFTER MOVED INTO EVIDENCE?

5 A. YES.

6 Q. NOW, AGENT FINE, DID YOU RELY ON A PORTION OF
7 THOSE EXHIBITS IN PREPARATION FINISH YOUR TESTIMONY
8 HERE TODAY AS WELL AS THE CHARTS BEING REFERENCED
9 YOU ASKED TO PREPARE?

10 A. I DID.

11 Q. AND SPECIAL AGENT FINE, DID YOU IN FACT CREATE
12 CHARTS AND TABLES THAT SUMMARIZED THE INFORMATION
13 IN THE PORTION OF THE EXHIBITS YOU DID REFER TO AND
14 REVIEW?

15 A. YES.

16 Q. NOW I'M GOING TO SHOW YOU A DOCUMENT, AGENT
17 FINE MARKED PREVIOUSLY AS 263 THROUGH 272. DO YOU
18 RECOGNIZE THOSE DOCUMENTS, AGENT FINE?

19 A. YES.

20 Q. AND AGENT FINE, DO THOSE EXHIBITS ACCURACY
21 LITE SUMMARIZE THE INFORMATION CONTAINED IN THE
22 FINANCIAL DOCUMENTS THAT YOU REVIEWED IN CONNECTION
23 WITH YOUR PREPARATION OF THOSE CHARTS THAT ARE
24 CONTAINED IN EXHIBITS 263 THROUGH 272?

25 A. YES.

1 MR. LUCEY: YOUR HONOR, AT THIS POINT THE
2 GOVERNMENT OFFERS EXHIBITS 263 UP TO INCLUDING 272
3 INTO EVIDENCE.

4 MR. FONG: NO OBJECTION, YOUR HONOR.

5 THE COURT: THOSE ARE RECEIVED.

6 (WHEREUPON, PLAINTIFF'S EXHIBIT NUMBER 263-272
7 HAVING BEEN PREVIOUSLY MARKED FOR IDENTIFICATION,
8 WERE ADMITTED INTO EVIDENCE.)

9 MR. LUCEY: YOUR HONOR, FOR THE BENEFIT
10 OF ALL CONCERNED BEING AS CAREFUL AS WE CAN IN
11 REVIEWING THE DOCUMENTS WE HAVE HARD COPIES TO
12 PROVIDE TO THE COURT.

13 WE ALREADY PROVIDED COPIES TO DEFENSE
14 COUNSEL AND WE ALSO INTEND TO PUBLISH A HARD COPY
15 TO EACH JUROR IN TODAY'S SESSION.

16 THANK YOU, YOUR HONOR.

17 AND YOUR HONOR JUST GIVING THE JURORS A
18 CHANCE TO DISTRIBUTE THOSE INDIVIDUAL HARD COPIES
19 OF EXHIBIT 263 THROUGH 272. I WOULD ASK THE JURORS
20 REMAIN ON THE FIRST PAGE OF THEIR HAND OUT, 263.

21 AND NOW MS. BURNEY I WOULD ASK IF YOU
22 COULD PUT THAT ON THE GENE FOR OUR BENEFIT AS WELL.
23 THANK YOU.

24 Q. AGENT FINE, DO YOU SEE EXHIBIT 263?

25 A. YES.

1 Q. AND YOU HAVE A HARD COPY IN FRONT OF YOU?

2 A. I DO.

3 Q. SO AGENT FINE, TAKE A LOOK AT EXHIBIT 263.
4 WHAT DOES -- WHAT INFORMATION DOES EXHIBIT 263
5 SUMMARIZE?

6 A. IT SUMMARIZES THAT DISTRIBUTION OF BOB LIN'S
7 FIRST \$100,000 INVESTMENT WHICH HE WIRED
8 TRANSFERRED TO A BANK OF AMERICA ACCOUNT TO ALBERT
9 HU ON FEBRUARY 8TH, 2005.

10 Q. AND YOU CREATED A CHART IN CONNECTION WITH
11 THAT FIRST WIRE?

12 A. I DID.

13 Q. AND HOW MUCH MONEY, SPECIAL AGENT FINE, WAS
14 USED TO PURCHASE STOCKS AND OTHER SECURITIES AFTER
15 THIS WIRE ARRIVED IN THE ACCOUNT ON OR ABOUT
16 FEBRUARY 8TH, 2005?

17 A. NO MONEY WAS.

18 Q. HOW WAS THE MONEY ACTUALLY SPENT?

19 A. WELL, THIS CHART DETAILS HOW. BUT IN GENERAL,
20 I PUT IT IN THREE CATEGORIES. \$77,274.06 WAS SPENT
21 ON CHECK AND CHECK CARD PURCHASES. ANOTHER
22 \$12,557.16 WAS TRANSFERRED TO ASENQUA EMPLOYEES.

23 AND FINALLY 10,000 WAS TRANSFERRED TO
24 DIFFERENT BANK ACCOUNT IN THE SAME OF ASENQUA AT
25 WELLS FARGO.

1 Q. SO ESSENTIALLY IT WAS DISTRIBUTED THREE WAYS,
2 ROUGHLY?

3 A. ROUGHLY.

4 Q. AND AGENT FINE, CAN WE NOW PROCEED TO TAKE
5 EACH CATEGORY IN SEQUENCE. I WILL START WITH THE
6 TOP ONE ON THE RIGHT-HAND SIDE, CHECK AND CHECK
7 CARD PURCHASES WHICH AMOUNT TO APPROXIMATELY
8 \$17,274.06?

9 A. OKAY.

10 Q. IT SAYS CHECK CARD PURCHASES WHAT DO YOU MEAN
11 BY THAT IN YOUR CHART HERE?

12 A. THIS IS A TYPICAL ACCOUNT AT BANK OF AMERICA
13 THAT HAD CHECKS ASSOCIATED WITH IT AND A CHECK CARD
14 ASSOCIATED WITH IT. SO THE MONEY CAME OUT USING
15 CHECKS OR CHECK CARD.

16 Q. AND JUST ESSENTIALLY, USES OF THE MONEY BASED
17 ON CHECK AND CHECK CARDS?

18 A. THAT'S CORRECT.

19 Q. BASED ON YOUR REVIEW OF THOSE ACCOUNT
20 DOCUMENTS DID IT GIVE YOU ANY INDICATION THAT THE
21 MONEY WAS BEING USED TO PURCHASE SECURITIES?

22 A. I FOUND NO EVIDENCE OF THAT.

23 Q. SO I WOULD LIKE TO NOW HAVE MS. BURNEY CHANGE
24 THE DOCUMENT ON THE SCREEN TO THE BANK OF AMERICA
25 CARD STATEMENT FOR THE ACCOUNT ENDING IN 6581. IF

1 YOU COULD CALL YOUR ATTENTION TO EXHIBIT 245. IT'S
2 IN PARTICULAR BATES NUMBER 8627 WHICH SHOULD BE
3 PAGE 23.

4 SO AGENT FINE YOU NOW SEE EXHIBIT 245 IN
5 FRONT OF YOU ON THE SCREEN

6 A. I SEE IT, NOT VERY WELL.

7 Q. PERHAPS IF I GET YOU A HARD COPY, AGENT FINE.

8 SHOWING YOU A PORTION OF EXHIBIT 245,
9 GOVERNMENT EXHIBIT 245 IN EVIDENCE.

10 JUST FOR ALL, WHAT IS EXHIBIT 245 HERE
11 THE DOCUMENT I JUST SHOWED YOU BEGINNING AT BATES
12 NUMBER 8626.

13 THIS IS THE BANK OF AMERICA ACCOUNT
14 STATEMENT FOR 8561. ASENQUA CAPITAL LLC. IT'S FOR
15 THE TIME PERIOD OF FEBRUARY 5TH, 2005, THROUGH
16 MARCH 10TH, 2005.

17 Q. AND AGENT FINE I NOW CALL YOUR ATTENTION TO
18 THE ENTRIES BEGINNING AT 214 WHICH ARE ON SCREEN IN
19 FRONT OF US.

20 AS A REFERENCE HERE TO A PURCHASE AT 2-14
21 ON 2-13, THAT'S WHAT A REFERENCE TO?

22 A. THAT WAS A PURCHASE OF \$254.83 AT COSTCO.

23 Q. DOES THAT APPEAR TO BE FROM YOUR VIEW OF THE
24 RECORD A PURCHASE OF SOME KIND OF STOCK OR SECURITY
25 IN COSTCO?

1 A. NO. THIS IS A PURCHASE OF MERCHANDISE AT
2 COSTCO, MOUNTAIN VIEW.

3 Q. NEXT I CALL YOUR ATTENTION AGENT FINE TO THE
4 ENTRY ON 216. DO YOU SEE A REFERENCE HERE FOR
5 CHECK CARD PURCHASE ON 2-15 FOR AN AMOUNT OF OVER
6 \$4,000?

7 A. YES.

8 Q. WHAT IS THAT A REFERENCE TO?

9 A. BASED ON THE RECORD IT'S A REFERENCE TO
10 \$4,760.78 AT FRY'S ELECTRONICS IN PALO ALTO.

11 Q. I CALL YOUR ATTENTION NOW AGENT FINE TO THE
12 BOTTOM OF THIS DOCUMENT, THE LAST ENTRY OF THE PAGE
13 ON OR ABOUT 2-22.

14 A. YES.

15 Q. A CHECK CARD PURCHASE ON 2-17?

16 A. YES.

17 Q. APPARENTLY IN THE AMOUNT OF HUNDRED \$8.50?

18 A. THAT'S RIGHT.

19 Q. WHAT'S THAT A PURCHASE TO?

20 A. STAR BUCKS.

21 Q. BASED ON YOUR VIEW OF THE RECORD DOES THAT
22 APPEAR TO BE A PURCHASE OF SECURITIES IN STARBUCKS?

23 MR. FONG: OBJECTION. ARGUMENTATIVE.

24 THE COURT: OVERRULED.

25 THE WITNESS: NO, THAT'S A PURCHASE AT A

1 STARBUCKS IN PALO ALTO.

2 BY MR. LUCEY:

3 Q. SO AGENT FINE, WE LOOKED AT A COUPLE OF
4 ENTRIES FOR CHECKS AND CHECK CARD PURCHASES HERE ON
5 THIS PAGE OF THE DOCUMENT 8627.

6 IN GENERAL TERMS, ARE THESE ITEMS
7 REPRESENTATIVE OF THE SPENDING GOING ON IN THE
8 ACCOUNT AT THAT TIME AFTER MR. LIN'S WIRE HIT THE
9 ACCOUNT ON FEBRUARY 8TH?

10 A. YES.

11 Q. MR. FINE GOING FORWARD NOW, THE NEXT REFERENCE
12 ON YOUR PIE CHART IN GREEN IS TO ASENQUA EMPLOYEES?

13 A. YES.

14 Q. TURNING BACK TO EXHIBIT 263?

15 A. OKAY.

16 Q. MS. BURNEY, THANK YOU. WHAT'S THIS A
17 REFERENCE TO. THIS CATEGORY?

18 A. THIS IS A REFERENCE TO MONEY TRANSFERRED TO
19 PERSONS WORKING FOR ALBERT HU.

20 Q. SO WHO IN FACT RECEIVED THOSE FUNDS BASED ON
21 YOUR REVIEW OF THE BANK STATEMENTS?

22 A. STEVE BOND.

23 Q. AND THE LAST CATEGORY ON THIS CHART IS FOR
24 \$10,000, WHAT'S THAT A REFERENCE TO?

25 A. THAT WAS \$10,000 THAT WAS TRANSFERRED TO A

1 DIFFERENT ASENQUA ACCOUNT. THIS ONE AT WELLS
2 FARGO.

3 Q. AND HAVE YOU HAD AN OPPORTUNITY TO LOOK AT
4 THAT, THE TRANSFER REFERENCED ON THE BANK STATEMENT
5 AS WELL?

6 A. YES.

7 Q. AND THAT IS ALSO CONTAINED ON THE EXHIBIT WE
8 JUST LOOKED AT, EXHIBIT 245?

9 A. IT IS.

10 Q. DID YOU ALSO HAVE A CHANCE TO LOOK AT THE END
11 RESULT OF THAT TRANSFER TO THE WELLS FARGO ACCOUNT?

12 A. I DID.

13 Q. AND THAT'S CONTAINED IN EXHIBIT 237. PAGE 73
14 OF THAT EXHIBIT.

15 AGENT FINE, WHILE WE ARE TRYING TO GET
16 THAT DOCUMENT PULLED UP ON THE SCREEN, LET ME ASK
17 YOU A QUESTION OF THE BANK OF AMERICA ACCOUNT WE
18 HAVE BEEN REFERRING TO.

19 DID THE DEFENDANT HAVE ACCESS TO AND
20 CONTROL THIS ACCOUNT?

21 A. YES.

22 Q. AND WE WILL COME BACK TO THAT EXHIBIT.

23 MS. BURNEY, IF YOU COULD NOW TURN TO EXHIBIT 238 AT
24 PAGE 423.

25 SO AGENT FINE, ARE YOU ABLE TO VIEW THE

1 DOCUMENT ON THE SCREEN?

2 A. YES.

3 Q. SO, ARE YOU FAMILIAR WITH THIS DOCUMENT,
4 EXHIBIT 237 BATES NUMBER 5551, NUMBER 73 OF THE
5 EXHIBIT. DO YOU SEE THE ENTRY HERE, I WILL POINT
6 OUT WITH MY PEN, AGENT FINE, FOR \$10,000; IS THAT
7 CORRECT?

8 A. YES.

9 Q. WHAT'S THAT A REFERENCE TO, BASED ON YOUR
10 ANALYSIS?

11 A. IT'S ON THE PIE CHART IT'S THE 10,000 THAT'S
12 BEING TRANSFERRED FROM THE BANK OF AMERICA ACCOUNT
13 TO WELLS FARGO.

14 Q. THANK YOU.

15 NOW SHOWING YOU EXHIBIT 238, BATES NUMBER
16 6196, PAGE 423 OF THE EXHIBIT. DO YOU SEE THAT
17 DOCUMENT NOW ON THE SCREEN THERE, AGENT FINE?

18 A. YES.

19 Q. I CALL YOUR ATTENTION TO THE ENTRY ON 2-10,
20 THE SECOND TO LAST ENTRY. COULD YOU READ THAT
21 ENTRY -- THIS IS NOW THE WELLS FARGO BANK ACCOUNT.
22 WHO CONTROLS THIS BANK ACCOUNT BASED ON YOUR REVIEW
23 OF THE DOCUMENTS?

24 A. SO I THINK WE'VE -- THIS IS ALBERT HU AGAIN.
25 I NEED TO SEE THE FULL BANK STATEMENT BECAUSE I'M

1 NOT SURE THIS IS THE SAME BANK ACCOUNT YOU JUST --

2 Q. CERTAINLY. I'M PROVIDING YOU NOW A COPY OF
3 GOVERNMENT EXHIBIT 237. I'M SORRY, 238?

4 A. THAT'S RIGHT. THIS IS EXHIBIT 238. SO THE
5 10,000 WENT FROM THE BANK OF AMERICA ACCOUNT WHERE
6 BOB LIN ORIGINALLY WIRED HIS MONEY TO AN ASENQUA
7 WELLS FARGO ACCOUNT. AFTER THAT, WHICH IS WHAT WE
8 WERE STARTING TO JUST SEE, THERE'S A SEPARATE
9 ACCOUNT IN THE NAME OF JUST ALBERT HU, A PERSONAL
10 ACCOUNT.

11 AND 7,000 OUT OF THAT 10,000 WENT TO
12 ALBERT HU'S PERSONAL ACCOUNT. THEN WE WERE SEEING
13 THE END RESULT OF IT ON THE SAME DAY, 5,000,
14 THERE'S A \$5,000 TRANSACTION YOU WERE JUST SHOWING.

15 Q. AND AGENT FINE, LET ME FLASH THAT BACK UP ON
16 THE SCREEN.

17 SO CALLING YOUR ATTENTION NOW TO THE
18 ENTRY, SECOND TO THE LAST ENTRY ABOVE THE LINE,
19 TOTAL OTHER WITHDRAWALS.

20 A. YES.

21 Q. THERE'S AN ENTRY ON 2-10?

22 A. THAT'S RIGHT.

23 Q. FOR \$5,000?

24 A. CORRECT.

25 Q. AND WHAT DOES THE BANK RECORD REFLECT IS THAT

1 TRANSACTION?

2 A. IT SAYS LOAN PAY BACK TO JESSE.

3 Q. NOW MS. BURNEY IF YOU COULD FLASH BACK ON THE
4 SCREEN GOVERNMENT EXHIBIT 263, THE COLORED CHART
5 FOR MR. LIN'S FIRST \$100,000 INVESTMENT AND WIRE ON
6 FEBRUARY 8TH, 2005.

7 SO MR. FINE, JUST SO WE ARE CLEAR, BASED
8 ON YOUR REVIEW OF THIS BANK ACCOUNT STATEMENT, THE
9 6581 BANK ACCOUNT THAT WAS THE RECIPIENT ACCOUNT
10 FOR MR. LIN'S FIRST WIRE, HOW MUCH OF THAT MONEY
11 WENT TOWARDS INVESTMENTS

12 A. NONE.

13 Q. AND LOOKING BACK AT YOUR CHART AGAIN, AGENT
14 FINE, THERE'S TWO ENTRIES AT THE BOTTOM OF THE
15 CHART, ONE HAS ONE ASTERISK AND THE SECOND ONE HAS
16 TWO. CAN YOU EXPLAIN TO THE JURY WHAT THAT IS A
17 REFERENCE TO BEGINNING AT \$98.78?

18 A. YES. SO BEFORE BOB LIN WIRED THE HUNDRED
19 THOUSAND DOLLARS THE BANK OF AMERICA ACCOUNT HAD A
20 NEGATIVE BALANCE. IT WAS \$98.78. SO THE FIRST
21 ASTERISK REFERS TO THE MONEY TO REPLENISH THE
22 ACCOUNT TO BRING IT BACK TO INJURY.

23 THE SECOND ASTERISK IS A SMALL AMOUNT
24 SPENT IN BANK FEE

25 Q. AND AGENT FINE, AS YOU'VE NOW SUMMARIZED ON

1 THIS CHART, WAS THERE ANY OTHER SOURCE OF FUNDS
2 INTO THE ACCOUNT OTHER THAN THE WIRE THAT BOB LIN
3 DIRECTED BE SENT TO THE ACCOUNT ON FEBRUARY 8TH,
4 2005?

5 A. NO, THERE WERE NOT.

6 Q. IT'S --

7 A. I SHOULD CLARIFY. THERE'S -- IT'S THE
8 STATEMENT UP ON THE SCREEN. THERE WAS A CREDIT
9 THAT WAS A REFUND OF A PRIOR CHECK CARD PURCHASE SO
10 REALLY IT'S BOB LIN'S MONEY COMING BACK IN.

11 Q. BEING RECYCLED INTO THE ACCOUNT?

12 A. RIGHT. BUT IT'S ALL BOB LIN'S MONEY.

13 Q. IF WE COULD TURN OUR ATTENTION TO GOVERNMENT
14 EXHIBIT 264.

15 AGENT FINE YOU ALSO PREPARED THIS EXHIBIT
16 AS WELL, CORRECT

17 A. YES.

18 Q. WHAT IS THIS EXHIBIT 264 SUMMARIZE?

19 A. THIS SHOWS FOR THAT SAME BANK OF AMERICA
20 ACCOUNT SHOWS THE DAILY BALANCE JUST BEFORE BOB
21 LIN'S WIRE AND THE PERIOD AFTER RECEIVING BOB LIN'S
22 WIRE ON FEBRUARY 8TH, 2005.

23 Q. NOW AGENT FINE I WANT TO BE CLEAR ABOUT
24 SOMETHING. YOUR CHART HERE SHOWS -- IT STARTS ON
25 2-7, THERE'S OBVIOUSLY A LARGE SPIKE UP HERE ON

1 2-8, RIGHT?

2 A. YES.

3 Q. BUT IT NEVER QUITE REACHES \$100,000?

4 A. THAT'S RIGHT.

5 Q. BUT MR. LIN DID WIRE \$100,000?

6 A. YES.

7 Q. WHAT IS THIS CHART SHOWING?

8 A. THERE'S TWO REASONS WHY IT HIT \$100,000. ONE
9 IS THAT THE ACCOUNT WAS ALREADY NEGATIVE BEFORE HE
10 PUT THE MONEY IN. AND THE SECOND IS BANK OF
11 AMERICA DOES THEIR DAILY BALANCES AT THE END OF THE
12 DAY. SO THE SAME DAY BOB LIN WIRED IN MONEY, SOME
13 OF IT WAS SPENT.

14 Q. THEN FURTHER ON, AGENT FINE THERE'S AN ENTRY
15 HERE ON THE RIGHT SIDE OF THE CHART SHOWING 2-2-05?

16 A. YES.

17 Q. WHAT DOES THAT REFLECT ON THAT DATE?

18 A. THE BALANCE ON THAT DATE IS ACTUALLY BACK TO
19 NEGATIVE. NEGATIVE 207.02.

20 Q. HOW MUCH TIME ELAPSED BETWEEN THE TIME OF THE
21 WIRE HITTING AND THE TIME OF IT HITTING A NEGATIVE
22 BALANCE?

23 A. ABOUT TWO WEEKS.

24 Q. NOW MR. FINE I WANT TO DRAW YOUR ATTENTION TO
25 GOVERNMENT EXHIBIT 265. MS. BURNEY IF YOU COULD BE

1 SO KIND TO TURN TO THE NEXT EXHIBIT IN ORDER.

2 AGENT FINE, WHAT INFORMATION DOES

3 GOVERNMENT EXHIBIT 265 SUMMARIZE?

4 A. SIMILAR TO THE FIRST PIE CHART WE LOOKED AT.

5 DISTRIBUTION OF BOB LIN'S SECOND \$100,000 THAT HE

6 INVESTED, SPECIFICALLY HIS WIRE TRANSFER WAS

7 FEBRUARY 23RD, 2005.

8 Q. AND HOW MUCH OF THE MONEY FROM THIS SECOND BOB

9 LIN WIRE THAT OCCURRED ON OR ABOUT FEBRUARY 23RD,

10 2005, HOW MUCH OF THAT WAS USED TO PURCHASE STOCKS

11 AND OTHER SECURITIES, BASED ON YOUR REVIEW OF THE

12 DOCUMENTS?

13 A. I FOUND NO EVIDENCE THAT ANY OF IT WAS USED TO

14 PURCHASE SECURITY.

15 Q. SO YOUR EXHIBIT HERE YOU PREPARED, 265, THIS

16 SUMMARIZES HOW THE MONEY WAS ACTUALLY SPENT?

17 A. YES.

18 Q. SO AGAIN, WHAT IS THE RED COLOR ON THE CHART,

19 THE SINGLE LARGEST CATEGORY OF SPENDING?

20 A. CHECK AND CHECK CARD PURCHASES IN THE AMOUNT

21 OF 76,590.18.

22 Q. MS. BURNEY IF YOU COULD CALL UP THE BANK OF

23 AMERICA ACCOUNT, EXHIBIT 245, AND MR. FINE YOU

24 STILL HAVE A HARD COPY IN FRONT OF YOU?

25 A. I DO.

1 Q. MS. BURNEY, IF YOU COULD BLOW UP THE TEXT
2 BEGINNING AT THE DATE OF 2-25-05?

3 MR. FINE, THERE APPEARS TO BE AN ENTRY OF
4 \$10,000. WHAT WAS THE CHECK FOR \$10,000, WERE YOU
5 ABLE TO EXAMINE THE CHECK?

6 A. I BELIEVE SO.

7 Q. AGENT FINE DO YOU RECOGNIZE THIS PORTION OF
8 EXHIBIT 245?

9 A. YES.

10 Q. WHAT IS THIS DOCUMENT?

11 A. THIS IS THAT CHECK THAT WE WERE JUST LOOKING
12 AT ON THE ACCOUNT STATEMENT.

13 Q. DID YOU HAVE AN UNDERSTANDING IF THIS WAS IN
14 CONNECTION OF ANY KIND OF SECURITIES?

15 A. NO.

16 Q. MS. BURNEY, IF YOU COULD TURN BACK TO THE MAIN
17 ACCOUNT STATEMENT PAGE. AND AGAIN, IF YOU COULD
18 ENLARGE THE BOTTOM HALF BEGINNING AT 225 OF THE
19 DOCUMENT.

20 AND AGAIN, AGENT FINE YOU MAY WANT TO
21 REFER TO THE HARD COPY IN FRONT OF YOU. THERE
22 APPEARS TO BE AN ENTRY ON 2-28-05 FOR REFERENCE OF
23 \$9.68

24 A. YES. THERE'S A PURCHASE AT PALO ALTO
25 HARDWARE.

1 Q. THERE APPEARS TO BE A DEBIT FOR \$1,700 PLUS ON
2 228?

3 A. YES. IT WAS A PURCHASE TO AIR CHINA.

4 Q. AND HOW MUCH WAS THAT EXACT PURCHASE FOR?

5 A. I'M SORRY, \$1,760.95.

6 Q. IF WE COULD TURN TO THE NEXT PAGE, MS. BURNEY,
7 IN ORDER OR SEQUENCE. STILL ON EXHIBIT 245. IF WE
8 COULD HIGHLIGHT THE ENTRIES IN OR AROUND MARCH 2ND,
9 2005.

10 AND THEN I CALL YOUR ATTENTION, AGENT
11 FINE TO THE ENTRY ON THE BANK RECORD DATED
12 MARCH 2ND, 2005. THERE'S AN ENTRY FOR 1,479.89

13 A. YES.

14 Q. WHO IS THE PAYEE ON THAT PARTICULAR ENTRY?

15 A. HQ GLOBAL WORK PLACE.

16 Q. AGENT FINE, DID YOU HAVE AN UNDERSTANDING
17 BASED ON YOUR INVOLVEMENT AND REVIEW OF DOCUMENTS
18 IN THIS MATTER OF ANY CONNECTION BETWEEN THE
19 DEFENDANT AND HQ GLOBAL PRIOR TO MARCH 2005?

20 A. YES.

21 Q. WHAT IS THE CONNECTION?

22 A. HE PURCHASED VIRTUAL OFFICE SPACE FROM THAT
23 COMPANY.

24 Q. PREVIOUS TO MARCH 2005?

25 A. YES.

1 Q. AGENT FINE WHAT'S THE GREEN WHICH ARE ON THIS
2 CHART NOW FOR \$10,000?

3 A. THAT'S 10,000 TRANSFERRED TO AN ASENQUA
4 EMPLOYEE.

5 Q. WHAT ASENQUA EMPLOYEE RECEIVED THAT SUM OF
6 MONEY?

7 A. IT WAS STEVE BOND.

8 Q. AND THAT'S AGAIN BASED ON YOUR REVIEW OF THE
9 BANK STATEMENT?

10 A. YES.

11 Q. EXHIBIT 245?

12 A. THAT'S CORRECT.

13 Q. NOW THE NEXT ENTRY ON YOUR CHART AGENT FINE IS
14 FOR ANOTHER \$10,000 SUM IN YELLOW, WHAT'S THAT IN
15 REFERENCE TO?

16 A. THE SAME ASENQUA, WELLS FARGO ACCOUNT.

17 Q. AND YOU ALSO REVIEWED THAT PORTION OF THE
18 WELLS FARGO ACCOUNT FOR ASENQUA, DID YOU NOT?

19 A. YES.

20 Q. WAS THAT MONEY USED TO PURCHASE SECURITIES?

21 A. IT WAS NOT.

22 Q. WHAT HAPPENED AFTER IT HIT THAT BANK ACCOUNT,
23 DID IT STAY THERE, ALL OF IT?

24 A. I DON'T BELIEVE SO. I BELIEVE SOME WAS
25 TRANSFERRED TO ALBERT HU'S PERSONAL ACCOUNT.

1 Q. AND AFTER IT WENT TO THE PERSONAL ACCOUNT,
2 WERE YOU ABLE TO DETERMINE WHAT HAPPENED TO IT
3 AFTER THAT WHEN IT HIT MR. HU'S OTHER ACCOUNT AT
4 WELLS FARGO BANK?

5 A. YES.

6 Q. AND REFERRING NOW TO EXHIBIT 237. AND AGENT
7 FINE, YOU UNDERSTAND THERE WERE ADDITIONAL MONIES
8 TRANSFERRED OUT OF THIS ACCOUNT?

9 A. YES.

10 Q. AND I CALL YOUR ATTENTION -- MS. BURNEY IF YOU
11 COULD HIGHLIGHT THE TOP PORTION OF THE PAGE, IN OR
12 AROUND FEBRUARY 28TH.

13 THERE'S AN ENTRY FOR \$10,000

14 A. YES.

15 Q. WHERE WAS THAT GOING TO, AS YOU UNDERSTAND IT?
16 WAS THAT COMING FROM THE BANK OF AMERICA ACCOUNT WE
17 JUST LOOKED AT?

18 A. THAT'S RIGHT. SO THIS WAS THE YELLOW PIE ON
19 THE CHART. THIS IS THE \$10,000 GOING FROM BANK OF
20 AMERICA TO WELLS FARGO.

21 Q. NOW MS. BURNEY, IF YOU COULD CALL UP THE NEXT
22 EXHIBIT IN ORDER, 238. FIRST IF WE COULD START ON
23 PAGE 425 OF THAT EXHIBIT.

24 IF YOU COULD NOW, FIRST, FOR THE BENEFIT
25 OF THE JURY AND THE COURT, IF YOU COULD BLOW UP THE

1 ENTRY AT THE TOP, THE ADDRESS ON THIS BANK
2 STATEMENT. AND AGENT FINE, AGAIN, LET ME SHOW YOU
3 A HARD COPY OF THIS DOCUMENT SO YOU CAN READ ALONG
4 WITH THIS MORE EASILY. SHOWING YOU A PORTION OF
5 EXHIBIT 238, BEGINNING AT PAGE 425 OF THE EXHIBIT.
6 HAVE YOU SEEN THIS DOCUMENT BEFORE, AGENT FINE

7 A. I HAVE.

8 Q. WHAT IS IT IN GENERAL TERMS?

9 A. THIS IS A WELLS FARGO STATEMENT FOR ALBERT
10 KE-JENG AND I DON'T KNOW HOW TO PRONOUNCE IT,
11 H-S-I-A-O-M-E-I, L-I-U. AND IT'S FOR THE PERIOD
12 FEBRUARY 11TH, 2005, THROUGH MARCH 10TH, 2005.

13 Q. AND THIS IS AN ADDRESS IN FREMONT, CALIFORNIA?

14 A. YES.

15 Q. IF I CAN BOTH CALL YOUR ATTENTION TO THE NEXT
16 PAGE OF THIS EXHIBIT, 426. AND IF WE CAN NOW
17 HIGHLIGHT THE TOP PORTION OF THE DOCUMENT.

18 AND WHAT'S GOING ON IN THIS TOP PORTION
19 OF THE DOCUMENT, AGENT FINE?

20 A. THIS IS ALL THE DOCUMENTS INTO THAT ACCOUNT.

21 Q. OKAY. NOW IN TERMS OF THE DEPOSITS COMING
22 FROM THE VARIOUS ACCOUNTS, THERE APPEARS TO BE SOME
23 ON LINE TRANSFERS ON 2-28 AND 3-03?

24 A. YES.

25 Q. AND WHAT ACCOUNTS ARE THOSE MONEYS COMING

1 FROM?

2 A. THE ASENQUA WELLS FARGO ACCOUNT.

3 Q. THE ONE WE HAD A MOMENT AGO?

4 A. YES.

5 Q. EXHIBIT 237. HAVE YOU ALSO BEEN ABLE TO LOOK
6 OVER THIS DOCUMENT IN TERMS OF HOW THE MONEY WAS
7 SPENT IN GENERAL TERMS AFTER THE MOAN HAS ARRIVED
8 FROM THE OTHER WELLS FARGO ACCOUNT FOR ASENQUA?

9 A. YES.

10 Q. THERE WERE ANY CASH WITHDRAWALS?

11 A. YES.

12 Q. WAS THERE ANY SPENDING ON WHAT APPEARS TO BE
13 TRAVEL?

14 A. YES. IN THE ASENQUA ACCOUNT THERE APPEARED TO
15 BE TRAVEL PURCHASES. IN THE PERSONAL ACCOUNT,
16 ABOUT 4500 WAS TRANSFERRED THAT APPEARED TO BE
17 PERSONAL.

18 Q. AGENT FINE, GOING ON NOW TO, STILL LOOKING AT
19 EXHIBIT 265, WHAT IS THE ORANGE COLOR INDICATED
20 THERE ON THE TOP OF THE PIE CHART?

21 A. THAT'S \$3,000 OUT OF THE \$100,000 WAS
22 WITHDRAWN IN CASH FROM THE BANK OF AMERICA ACCOUNT.

23 Q. THEN AGENT FINE AT THE VERY BOTTOM OF THE
24 DOCUMENT THERE APPEARS TO BE TWO ASTERISK?

25 A. YES.

1 Q. WHAT ARE THOSE IN REFERENCE TO?

2 A. THEY ARE SIMILAR TO THE ASTERISK ON THE FIRST
3 PIE CHART. THE FIRST ONE INDICATES THAT PRIOR TO
4 BOB LIN'S \$100,000 COMING, THE ACCOUNT BALANCE WAS
5 NEGATIVE AGAIN FOR \$207.82.

6 SO SOME OF BOB'S MONEY WAS USED TO
7 REPLENISH THE OVERDRAWN ACCOUNT. AND THEN THERE
8 \$202.00 IN BANK FEES.

9 Q. AGENT FINE AGAIN, ASKING YOU A SIMILAR
10 QUESTION, BASED ON THE REVIEW OF THE BANK STATEMENT
11 IN SUCCESS BANK ACCOUNT 6581 WHICH WAS THE
12 RECEIVING ACCOUNT FOR MR. LIN'S SECOND WIRE, HOW
13 MUCH OF THAT WOULD YOU DETERMINE WENT TO THE
14 PURCHASE OF SECURITIES?

15 A. I FOUND NO EVIDENCE THAT ANY OF IT WENT TO THE
16 PURCHASE OF SECURITIES.

17 Q. AGENT FINE, I NOW CALL YOUR ATTENTION TO
18 GOVERNMENT EXHIBIT 266.

19 WHAT ARE WE NOW LOOKING AT HERE? WHAT IS
20 THIS EXHIBIT 266 SUMMARIZE?

21 A. THIS, AGAIN, IS THE DAILY BALANCE IN THE BANK
22 OF AMERICA ACCOUNT, JUST PRIOR TO BOB LIN'S
23 \$100,000 WIRE ON FEBRUARY 23RD, 2005, AS WELL AS
24 FOR ABOUT A WEEK AND A HALF AFTER.

25 Q. HOW MUCH TIME ELAPSED BETWEEN THE TIME THAT

1 THE MONEY HIT THE ACCOUNT ON OR ABOUT FEBRUARY 23RD
2 UNTIL IT WAS EXHAUSTED?

3 A. ABOUT TEN DAYS.

4 Q. AND NOW AGENT FINE I WANT TO CALL YOUR
5 ATTENTION TO THE NEXT EXHIBIT IN ORDER, 267?

6 A. OKAY.

7 Q. NOW WHAT IS THIS DOCUMENT?

8 A. THIS IS THE DAILY BALANCE FOR THE ENTIRE MONTH
9 PERIOD OF THE STATEMENT WE HAVE BEEN LOOKING AT.
10 THE TWO SPIKES, WHAT WE SAW PREVIOUSLY IN THE OTHER
11 TWO GRAPHS, THE HUNDRED THOUSAND DOLLAR INVESTMENTS
12 BY BOB LIN.

13 Q. JUST SO WE ARE CLEAR, THE DOCUMENT INDICATES
14 THIS, THE TWO HIGH SPIKES ARE THE TWO RECEIPTS OF
15 MR. LIN'S \$100,000 ON FEBRUARY 8TH THEN AGAIN ON
16 FEBRUARY 23RD?

17 A. YES.

18 Q. AND OTHER THAN THE MONEYS COMING IN FROM
19 MR. LIN, OTHER THAN ANY KIND OF CREDITS BACK TO THE
20 ACCOUNT ON CARD PURCHASES, WERE THERE ANY OTHER
21 SOURCES OF MONEY COMING INTO THIS ACCOUNT BETWEEN
22 THE TIME PERIOD OF FEBRUARY 5TH, 2005, UP TO
23 MARCH 4TH, 2005?

24 A. SNOW.

25 Q. NOW YOU'VE HAD AN OPPORTUNITY, SPECIAL AGENT

1 FINE TO REVIEW THE STATEMENTS PROVIDED TO MR. LIN
2 AS TO THE FIRST \$2,100,000 WIRES?

3 A. I HAVE.

4 Q. I WOULD ASK TO PUBLISH TO THE JURY GOVERNMENT
5 EXHIBIT NUMBER 3: HAVE YOU SEEN THIS DOCUMENT
6 BEFORE, AGENT FINE?

7 A. YES.

8 Q. WHAT IS THIS DOCUMENT?

9 A. IT'S THE ACCOUNT STATEMENT GIVEN TO BOB LIN,
10 I'M SORRY I CAN'T READ THE DATE.

11 Q. MS. BURNEY, IF YOU COULD ENLARGE THE TOP
12 PORTION OF THE DOCUMENT.

13 A. IT APPEARS TO BE THE ACCOUNT STATEMENT FOR BOB
14 LIN FOR Q1, 2005. STATEMENT DATE IS APRIL 17TH,
15 2005.

16 Q. AND MS. BURNEY, IF YOU COULD ENLARGE THE
17 BOTTOM PORTION OF THE DOCUMENT WHERE IT SAYS TOTAL
18 VALUE. COULD YOU READ THAT?

19 A. YES.

20 Q. WHAT DOES IT SAY AT TOTAL VALUE?

21 A. \$203,842.

22 Q. AND BASED ON YOUR ANALYSIS OF MR. LIN'S FIRST
23 TWO WIRES, AS THEY CAME INTO THE BANK AMERICA
24 ACCOUNT ENDING IN 6581, WHAT WAS THE BALANCE IN
25 THAT ACCOUNT AS OF EARLY MARCH 2005, ABOUT 4, 5,

1 6 WEEKS EARLIER?

2 A. NEXT TO NOTHING.

3 Q. AGENT FINE, IF YOU COULD NOW TURN OUR
4 ATTENTION TO GOVERNMENT EXHIBIT 268 AND ASK THAT BE
5 PUBLISHED NOW FOR THE JURY.

6 WHAT INFORMATION DOES GOVERNMENT 268
7 SUMMARIZE, AGENT FINE?

8 A. THIS IS THE DISTRIBUTION OF BOB LIN'S FIRST
9 \$250,000 WIRE WHICH HE WIRED ON JULY 6TH, 2005.

10 Q. AND IT APPEARS YOU'VE DONE A SIMILAR BREAK
11 DOWN OF DISTRIBUTION OF THAT MONEY AFTER IT HIT THE
12 ACCOUNT?

13 A. I HAVE.

14 Q. AND WAS ANY OF THIS MONEY, BASED ON YOUR
15 REVIEW OF THE ACCOUNT -- THIS IS SKILL BANK ACCOUNT
16 6581?

17 A. YES.

18 Q. THE SAME ONE WE WERE LOOKING AT FOR THE FIRST
19 TWO WIRES?

20 A. YES.

21 Q. WAS ANY OF THE MONEY USED TO PURCHASE
22 SECURITIES OR STOCKS OR OTHER SECURITIES?

23 A. NO.

24 Q. AND THE MONEY WAS ALSO SPENT ON THE CATEGORIES
25 REPRESENTED ON EXHIBIT 268?

1 A. THAT'S CORRECT.

2 Q. SO THE FIRST WHAT APPEARS TO BE THE LARGEST
3 CATEGORY IS \$150,000; IS THAT CORRECT?

4 A. THAT'S RIGHT.

5 Q. WHAT IS THAT A REFERENCE TO?

6 A. SO MOST OF BOB LIN'S MONEY WAS TRANSFERRED TO
7 A PRIOR INVESTOR, HONG LU FOR SPECIFICALLY
8 \$150,000.

9 Q. AND AGENT FINE, WHAT'S THE NEXT CATEGORY ON
10 THIS FOR, LOOKS LIKE A LITTLE OVER \$34,000?

11 A. YES, SO \$34,232.36 SPENT ON CHECK AND CHECK
12 CARD PURCHASES.

13 Q. AGENT FINE I'M NOW PROVIDING YOU A HARD COPY
14 OF THE NEXT PORTION, 245. IF YOU COULD DESCRIBE
15 THE DOCUMENT YOU ARE NOW LOOKING AT THAT'S PART OF
16 EXHIBIT 245.

17 A. THIS IS THE BANK OF AMERICA ACCOUNT STATEMENT
18 FOR THE ACCOUNT ENDING IN 6581 FOR THE TIME PERIOD
19 OF JUNE 10TH, 2005, THROUGH JULY 8TH, 2005. I ALSO
20 HAVE THE SEQUENTIALLY THE NEXT ACCOUNT STATEMENT
21 FOR THAT TIME FRAME WHICH IS FOR THE PERIOD
22 JULY 9TH, 2005, THROUGH AUGUST 10TH, 2005.

23 Q. AND FOR THE -- AGAIN, FOR THE BENEFIT OF THE
24 RECORD, THE STATEMENT BEGINNING JULY 9TH, WHAT IS
25 THE NUMBER AT THE VERY BOTTOM IN THE MIDDLE?

1 A. THE ONE, JULY 9TH IS 8644. IN THE VERY
2 MIDDLE? PAGE 40.

3 Q. PAGE 40. WHICH IS THE NUMBER OF THE
4 ELECTRONIC VERSION?

5 A. YES.

6 Q. JUST AGAIN, IF WE COULD WALK THROUGH THIS
7 PORTION OF EXHIBIT 245. MS. BURNEY, IF YOU COULD
8 FLASH UP ON THE SCREEN EXHIBIT 245 AT PAGES 38 TO
9 42. AND IN PARTICULAR, IF YOU COULD CALL YOUR
10 ATTENTION TO THE DOCUMENT WHICH ENDS AT THE BOTTOM,
11 NUMBER 40.

12 SO THIS IS THE STATEMENT YOU WERE
13 REFERRING TO A MOMENT AGO, AGENT FINE?

14 A. YES.

15 Q. MS. BURNEY, IF YOU COULD FIRST FLASH UP ON THE
16 SCREEN NOW THE NEXT PAGE IN SEQUENCE, PAGE 41 OF
17 EXHIBIT 245 WHICH IS BATES 8645.

18 AND IF YOU COULD ENLARGE, MS. BURNEY, THE
19 ENTRIES BEGINNING AT JULY 11, 2005. AND IF YOU
20 COULD FOCUS ON THE ENTRIES BEGINNING 7-11 UP
21 THROUGH 7-14.

22 AGENT FINE, THERE APPEARS TO BE AN ENTRY
23 ON 7-11-2005 WHICH WOULD BE SEVERAL DAYS AFTER
24 MR. LIN'S WIRE HIT THE ACCOUNT.

25 A. YES.

1 Q. FOR \$35?

2 A. YES.

3 Q. YOU SEE THAT ENTRY THERE?

4 A. YES.

5 Q. WHAT'S THAT IN REFERENCE TO AS FAR AS THE LINE
6 ITEM?

7 A. IT'S A PURCHASE AT FISH EAT CAFE IN FREMONT.

8 Q. GOING DOWN THERE'S AN ENTRY FOR \$1,341.59?

9 A. YES.

10 Q. WHAT'S THAT LINE ENTRY?

11 A. PURCHASE WITH EVA AIRWAYS.

12 Q. AND AGENT FINE GOING ON TO THE BOTTOM OF THE
13 PAGE 714 THERE'S AN ENTRY FOR \$3,088.96?

14 A. YES.

15 Q. WHAT'S THE LINE AUTOMATIC?

16 A. FAR EASTERN HOTEL IN TAIPEI.

17 Q. AND NUMBER OF ENTRIES HERE ON THIS PAGE,
18 MR. FINE, ON 7-18?

19 A. YES.

20 Q. I CALL YOUR ATTENTION TO THE ENTRY ABOUT
21 HALFWAY DOWN THE PAGE FOR 7-18, USA PETROLEUM?

22 A. YES.

23 Q. HOW MUCH IS THAT ENTRY?

24 A. \$15.14.

25 Q. AND GOING ON FURTHER IF WE COULD LOOK BAT THE

1 BOTTOM HALF OF THE PAGE FOR THE ENTRIES ON 7-26-05.
2 AGAIN, AGENT FINE I CALL YOUR ATTENTION TO THE
3 ENTRY FOR SHELL OIL ON 7-26-05. HOW MUCH IS THAT
4 FOR?

5 A. \$49.29.

6 Q. BASED ON YOUR REVIEW OF AFTER MR. LIN'S WIRE
7 HIT THE 6581 ACCOUNT ON OR ABOUT 7-6-2005 WHICH
8 SHOWED THE STATEMENTS FOR JUNE AND JULY THAT YOU
9 REFERENCED EARLIER ON EXHIBIT 245. IS THIS WHAT WE
10 ARE SEEING HERE ON THE CHECK AND CHECK CARD
11 PURCHASES, THAT WAS CONSISTENT WITH THE PATTERN YOU
12 OBSERVED?

13 A. YES.

14 Q. MS. BURNEY, IF YOU COULD RETURN TO
15 EXHIBIT 268, THE PIE CHART FOR THE THIRD BOB LIN
16 WIRE.

17 THE NEXT AREA IN QUESTION APPEARS TO BE
18 BLACK, \$20,000 ON IT.

19 A. YES.

20 Q. WHAT'S THAT IN REFERENCE TO?

21 A. REFERENCE OF \$20,000 GOING TO A PERSON BY THE
22 NAME OF J-I-E-Z-H-O-U, LI U.

23 Q. THAT MONEY WAS TRANSFERRED OUT OF THE 6581
24 BANK OF AMERICA ACCOUNT?

25 A. YES.

1 Q. TURNING TO THE NEXT CATEGORY, \$8,000, GREEN,
2 WHAT'S THAT A REFERENCE TO?

3 A. \$8,000 TO ASENQUA EMPLOYEES.

4 Q. AND WHAT ASENQUA EMPLOYEE RECEIVED THAT?

5 A. STEVE BOND.

6 Q. AND THAT'S WITH RESPECT TO THE BANK OF AMERICA
7 ACCOUNT IN QUESTION, 6581?

8 A. YES.

9 Q. SAYS \$37,000 767 AND \$0.64 DO YOU SEE THAT ON
10 YOUR CHART?

11 A. I DO.

12 Q. THEN ON THE RIGHT SIDE IT SAYS MISCELLANEOUS
13 DIVERSIONS, EXHIBIT 269. WHAT'S THAT IN REFERENCE
14 TO?

15 A. THERE'S A NUMBER OF TRANSFERS OR PAYMENTS THAT
16 WERE SMALLER THAN \$8,000 WOULD MAKE TINY PIE SLICES
17 THAT KIND OF MOLD TOGETHER IN THAT ONE PIE SPACE.

18 Q. MS. BURNEY IF YOU COULD TURN TO THE NEXT
19 DOCUMENT IN SEQUENCE, EXHIBIT 216. THIS IS THE
20 SERIES OF MISCELLANEOUS MATTERS AND DIVERSIONS THAT
21 YOU WERE REFERRING TO JUST A MOMENT AGO, AGENT
22 FINE?

23 A. YES.

24 Q. AND WERE ANY OF THESE MONEYS LISTED HERE BASED
25 ON YOUR REVIEW OF THE UNDERLYING DOCUMENTS AND

1 THESE FURTHER ON ENTRIES OF WELLS FARGO, DID ANY OF
2 THOSE GO TOWARDS THE PURCHASE OF SECURITIES?

3 A. NO.

4 Q. SO AGAIN SUMMARIZING HERE THE REVIEW OF THE
5 THIRD BOB LIN WIRE DID ANY OF THE \$250,000 THAT WAS
6 RECEIVED FROM MR. LIN AND RECEIVED INTO THE BANK OF
7 AMERICA ACCOUNT THAT MR. HU HAD PROVIDED HIM WITH
8 AT BANK OF AMERICA ACCOUNT ENDING IN 6581, WAS ANY
9 OF THAT MOAN USED TO PURCHASE SECURITIES AFTER IT
10 WAS RECEIVED INTO THE ACCOUNT?

11 A. NO.

12 Q. IF YOU COULD TURN TO EXHIBIT 270. SO AGENT
13 FINE, WHAT INFORMATION ARE WE LOOKING AT THAT
14 YOU'VE NOW SUMMARIZED IN EXHIBIT 270?

15 A. SO THIS IS THE DAILY BALANCE IN THE BANK OF
16 AMERICA ACCOUNT ENDING IN 6581 JUST BEFORE FOR THE
17 PERIOD AFTER BOB LIN'S \$250,000 WIRE ON JULY 6,
18 2005.

19 Q. AND BASED ON YOUR REVIEW -- BEFORE WE GET INTO
20 THAT, IT APPEARS YOU SHOW DATES BETWEEN JULY 6TH,
21 BEGINS JULY 5TH THEN IT SPIKES UP TO A QUARTER
22 MILLION DOLLARS ON JULY 6TH?

23 A. YES.

24 Q. IS THAT A REFERENCE TO THE WIRE ARRIVING IN
25 THE ACCOUNT?

1 A. YES.

2 Q. AND IT APPEARS TO GO ALL THE WAY UP TO
3 JULY 25TH OR 26TH OF 2005?

4 A. YES.

5 Q. HOW MUCH MONEY WAS LEFT AT THE END OF YOUR
6 CHART AT JULY 26, 2005?

7 A. \$159.53.

8 Q. THAT'S YOUR REFERENCE THERE AT THE BOTTOM OF
9 THE CHART?

10 A. YES.

11 Q. IT DIDN'T GO DOWN TO 0 AT THAT POINT?

12 A. NO, IT DIDN'T START AT EXACTLY 0 THOUGH,
13 EITHER.

14 Q. THAT'S BECAUSE THERE WAS A BALANCE IN THE
15 ACCOUNT WHEN IT HIT?

16 A. THERE WAS A SMALL BALANCE IN THE ACCOUNT, YES.

17 Q. OKAY. LESS THAN 500 HUNDRED DOLLARS -- AND I
18 CALL YOUR ATTENTION TO EXHIBIT 245, PAGE 38.

19 A. SO THE BALANCE IN THE ACCOUNT PRIOR TO THE BOB
20 LIN'S \$250,000 WIRE WAS \$481.82.

21 Q. AND HOW MUCH TIME ELAPSED FROM THE TIME THE
22 QUARTER MILLION HIT THE BANK OF AMERICA ACCOUNT
23 THAT MR. HU HAD CONTROL OF AND THE MONEY THAT WAS
24 IN THERE AFTER EXHAUSTED?

25 A. ABOUT THREE WEEKS.

1 Q. NOW AGAIN, AGENT FINE, HAVE YOU HAD AN
2 OPPORTUNITY TO REVIEW THOSE, YOU TOLD US EARLIER
3 YOU HAVE HAD A CHANCE TO REVIEW THE QUARTERLY
4 STATEMENTS?

5 A. YES.

6 Q. I CALL YOUR ATTENTION NOW TO GOVERNMENT
7 EXHIBIT 4. MS. BURNEY, IF YOU COULD BE SO KIND AS
8 TO PUBLISH THAT. AND MS. BURNEY FOR THE BENEFIT OF
9 MR. FINE IF YOU COULD ENLARGE THE TOP HALF OF THE
10 DOCUMENT WHERE THE STATEMENT IS LISTED.

11 WHAT IS THE STATEMENT DATE OF THIS
12 DOCUMENT ON THE SCREEN

13 A. JULY 28TH, 2005.

14 Q. AND WHO WAS IT BEING DIRECTED TO, BASED ON
15 THIS DOCUMENT?

16 A. IT SAYS FU-YUAN LIN 1996 TRUST.

17 Q. IT WAS GOING TO AN ADDRESS IN CUPERTINO?

18 A. YES.

19 Q. WHAT WAS THE TOTAL VALUE IN THIS STATEMENT
20 PROVIDED FROM MR. LIN TO YOU?

21 A. I BELIEVE IT SAYS FOR -- COULD YOU MAKE IT
22 BIGGER?

23 Q. MS. BURNEY, IF YOU COULD ENLARGE IT FURTHER.
24 THE TOTAL VALUE SECTION.

25 A. OKAY.

1 Q. AGENT FINE, LET ME PROVIDE YOU WITH A HARD
2 COPY.

3 A. SOUNDS GOOD. THERE, I CAN SEE IT NOW. THE
4 ACCOUNT BALANCE AT THAT DATE WAS \$463,078.70
5 ACCORDING TO THIS ACCOUNT STATEMENT.

6 Q. JUST SO WE ARE CLEAR BASED ON YOUR ANALYSIS OF
7 THE RELEVANCE BANK ACCOUNT ENDING IN 6581, WHAT WAS
8 THE ACCOUNT BALANCE THAT WAS SHOWING AS OF JULY 26,
9 2005, 2 DAYS EARLIER?

10 A. IN THE BANK OF AMERICA ACCOUNT IT WAS \$159.53.

11 Q. OKAY. AGENT FINE, CALLING YOUR ATTENTION NOW
12 TO GOVERNMENT EXHIBIT 30, HAVE YOU SEEN THIS
13 DOCUMENT BEFORE, AGENT FINE?

14 A. YES.

15 Q. WHAT IS IN DOCUMENT IN GENERAL TERMS?

16 A. IN GENERAL TERMS THIS WAS THE DOCUMENT
17 MEMORIALIZING BOB LIN'S TRANSFER OF HIS INVESTMENT
18 IN THE ASENQUA BETA FUND TO THE FIRESIDE LS FUND.

19 Q. AND THERE APPEARS TO BE TWO SIGNATURES ON THIS
20 DOCUMENT?

21 A. YES.

22 Q. WHAT SIGNATURE DO YOU UNDERSTAND IS ON THE TOP
23 HALF OF THE DOCUMENT OR THE, JUST BELOW THE ENTRY
24 SAYING \$562,332 CUBICLES AND \$0.82?

25 A. FU-YUAN LIN.

1 Q. AND IMMEDIATELY BELOW MR. LIN?

2 A. ALBERT HU.

3 Q. AND THIS WAS IN CONNECTION, WHAT TRANSFER WAS
4 TAKING PLACE HERE AS YOU UNDERSTAND IT?

5 A. AS I UNDERSTAND IT THE FUND WAS MOVING TO
6 SINGAPORE. MR. LIN HAD MONEY INVESTED AND THIS WAS
7 TO TRANSFER -- HE HAD MONEY INVESTED IN THE ASENQUA
8 BETA AND THIS WAS TO TRANSFER THE MONEY TO
9 SINGAPORE.

10 Q. MS. BURNEY, IF YOU COULD PUBLISH GOVERNMENT
11 EXHIBIT NUMBER 6. IF YOU COULD ENLARGE THE TOP
12 HALF OF THE DOCUMENT. THANK YOU.

13 YOU'VE SEEN THIS DOCUMENT BEFORE, AGENT
14 FINE?

15 A. YES.

16 Q. WHAT IS THE STATEMENT DATE OF THIS DOCUMENT?

17 A. JANUARY 1ST, 2006.

18 Q. AND NOW MS. BURNEY IF YOU COULD ENLARGE THE
19 MIDDLE PORTION OF THE DOCUMENT. IT APPEARS TO SHOW
20 SOMETHING ABOUT A TRANSFER, CORRECT, AGENT FINE?

21 A. YES.

22 Q. THE SAME SUM WE LOOKED AT A MOMENT AGO?

23 A. THAT'S CORRECT.

24 Q. AND THIS WAS A DOCUMENT THAT MR. HU PROVIDED
25 TO MR. LIN, CORRECT?

1 A. YES.

2 Q. AND MS. BURNEY IF YOU COULD ENLARGE THE BOTTOM
3 HALF OF THE DOCUMENT. IT APPEARS TO HAVE TWO
4 SIGNATURES AGAIN, AGENT FINE?

5 A. YES.

6 Q. AFTER MR. POLLACK AND YOU?

7 A. YES.

8 Q. NOW YOU REVIEWED THE DOCUMENTS, WE ARE GETTING
9 AHEAD OF OURSELVES A LITTLE BIT. BUT YOU RUDE THE
10 DOCUMENTS FOR THE CREDIT SWISS ACCOUNTS THAT WERE
11 USED FOR FIRESIDE LS FUND RECEIPT OF WIRES?

12 A. YES.

13 Q. THAT RECEIVED WIRES FROM MR. LIN AND
14 MR. VERDIELL, CORRECT?

15 A. CORRECT.

16 Q. AND BASED ON YOUR REVIEW OF THOSE CREDIT SWISS
17 DOCUMENTS IN OR AROUND THE TIME OF EXHIBIT 6 AND
18 AGAIN, MS. BURNEY, IF YOU COULD FLASH THAT BACK UP
19 WITH THE ENTIRE DOCUMENT.

20 STATEMENT DATE OF JANUARY 1, 2006, DID
21 YOU SEE ANY INDICATION OF A WIRE IN THE AMOUNT OF
22 OVER \$500,000 COMING FROM ANY ACCOUNT INTO THAT
23 CREDIT SWISS ACCOUNT FOR THE BENEFIT OF MR. LIN?

24 A. NO.

25 Q. IF WE COULD NOW TURN YOUR ATTENTION AGENT FINE

1 TO EXHIBIT 271?

2 A. OKAY.

3 Q. AND THIS IS ANOTHER CHART YOU PREPARED IN
4 CONNECTION WITH YOUR TESTIMONY HERE TODAY?

5 A. YES.

6 Q. SO WHAT INFORMATION IS SUMMARIZED IN
7 EXHIBIT 271?

8 A. SO THIS IS THE DISTRIBUTION OF MARK VERDIELL'S
9 \$2 MILLION INVESTMENT WHICH THE WIRE TRANSFER
10 OCCURRED ON APRIL 30TH, 2007.

11 Q. AND THERE'S A TITLE IMMEDIATELY BELOW THAT,
12 AGENT FINE THAT SAYS DISTRIBUTION AFTER WIRE
13 RECEIVED AS OF 6-19-2007?

14 A. YES.

15 Q. WHAT'S THAT A REFERENCE TO, AS OF 6-19-2007?

16 A. SO THIS IS WHERE THE MONEY WAS DISTRIBUTED TO
17 UP UNTIL OR AS OF THE DATE OF 6-19-2007.

18 Q. WHY IS THAT DATE OF 6-19-2007 SO SIGNIFICANT
19 AFTER THE WIRE TRANSFER OF APRIL 30TH, 2007?

20 A. SURE. IN CASE I WASN'T CLEAR, THIS IS THE
21 CREDIT SWISS ACCOUNT IN SINGAPORE IS WHAT WE ARE
22 LOOKING AT. IS ON 6-20-2007 IS WHEN BOB LIN WIRED
23 HIS SECOND \$250,000 WIRE.

24 SO UP UNTIL 6-19 IT'S ESSENTIALLY ONLY
25 MARK VERDIELL'S MONEY IN THIS ACCOUNT AND YOU CAN

1 DIRECTLY ASSOCIATE HIS MONEY WITH, WE WILL GET INTO
2 THE DETAILS IN THE PIE CHART, WHERE IT GOES.

3 AFTER 6-19 IT'S EITHER MARK VERDIELL'S
4 MONEY OR BOB LIN'S BUT IT'S ONE OF THE TWO.

5 Q. JUST SO WE ARE CLEAR FOR YOUR TESTIMONY NOW
6 AND I WILL BE ASKING YOU ADDITIONAL QUESTIONS ON,
7 MR. FINE, YOUR TESTIMONY IN REGARD TO THIS CHART,
8 EXHIBIT 271 IS ONLY IN REGARD TO FROM THE TIME THE
9 WIRE HITS MR. VERDIELL'S ACCOUNT INTO THE CREDIT
10 SWISS ACCOUNT HAD BEEN PROVIDED TO HIM BY MR. HU UP
11 UNTIL JUNE 19TH, 2007?

12 A. CORRECT.

13 Q. AND DID THE DEFENDANT, MR. HU HAVE CONTROL AND
14 ACCESS TO THIS CREDIT SWISS ACCOUNT?

15 A. YES.

16 Q. AND JUST A COUPLE MORE DETAILS. WE ARE
17 CALLING IT THE CREDIT SWISS ACCOUNT, IT WAS JUST
18 ONE ACCOUNT OR WAS THERE SORT OF ANY KIND OF A
19 SERIES OF ACCOUNTS THAT THEY ARE RELATED TO ONE
20 ANOTHER?

21 A. THERE'S A SERIES OF ACCOUNTS.

22 Q. COULD YOU IN GENERAL TERMS, COULD YOU DESCRIBE
23 THOSE, HOW THEY BROKE DOWN?

24 A. SURE. WELL, THERE'S A SERIES OF DEPOSITED
25 ACCOUNTS THAT WOULD HOLD CASH. AND THERE'S LIKE AN

1 ACCOUNT FOR SEVERAL DIFFERENT CURRENCIES AROUND THE
2 WORLD, THE U.S. DOLLAR ACCOUNT, THE EURO ACCOUNT,
3 THE YAN ACCOUNT, ET CETERA. AND YOU HAVE THE
4 ACTUAL PORTFOLIO ACCOUNT WHERE SECURITIES COULD BE.

5 Q. THOSE ARE BOTH SORTED WITH FIRESIDE UNDER THE
6 CONTROL OF MR. HU?

7 A. YES.

8 Q. SO NOW LOOKING AT YOUR CHART, LET'S WALK
9 THROUGH THE CATEGORIES FROM LARGEST TO SMALLEST.
10 WHAT'S THE FIRST CATEGORY ON YOUR CHART IN PURPLE
11 FOR 600,000 PLUS?

12 A. THE FIRST CATEGORY IS SIX HUNDRED THOUSAND
13 DOLLARS WAS OUT OF MARK VERDIELL'S \$2 MILLION WAS
14 SENT TO A PRIOR INVESTOR, ANDY YAN.

15 Q. AND HOW DID THAT MONEY GET FROM THE CREDIT
16 SWISS ACCOUNT FROM FIRESIDE TO MR. YAN?

17 A. WIRE TRANSFER.

18 Q. MS. BURNEY IF WE COULD LOOK AT A SERIES OF
19 DOCUMENTS, GOVERNMENT EXHIBIT 224. IN PARTICULAR,
20 BATES 2779 AND 2781 WHICH ARE FOR YOUR RECORDS ON
21 THE ELECTRONIC VERSION PAGES 31 AND 33.

22 Q. HAVE YOU SEEN THIS DOCUMENT BEFORE?

23 A. I HAVE.

24 Q. WHAT IS THE FIRST PAGE WE ARE LOOKING AT?

25 A. THE 600,000 IS ACTUALLY TWO WIRES OF ABOUT

1 \$300,000 ANDY YAN AND THIS IS ONE OF THE FIRST TWO
2 WIRES.

3 Q. THIS HAS A SERIES OF INDICATIONS ON IN AS FAR
4 AS NOTES AND SIGNATURES, AGENT FINE?

5 A. YES.

6 Q. WHAT'S YOUR UNDERSTANDING OF WHAT PERSON'S
7 SIGNATURE THERE AS THE AUTHORIZED SIGNATURE?

8 A. I UNDERSTAND THAT TO BE ALBERT KE-JENG HU'S.

9 Q. MS. BURNEY IF YOU COULD ENLARGE THE PORTION OF
10 224.

11 COULD YOU PLEASE READ THE PORTION READING
12 AT THE TOP LINE THERE, AGENT FINE, VALIDATION

13 A. VALIDATION ON CLIENT'S FAX INSTRUCTION.

14 Q. WHAT DOES IT SAY IMMEDIATELY BELOW THAT?

15 A. VOICE LOGGED WITH CLIENT, MR. HU.

16 Q. THEN MS. BURNEY IF YOU COULD NOW RETURN TO THE
17 LARGE PORTION OF THE DOCUMENT, THE BALANCE OF IT.

18 IF YOU COULD FOCUS IN ON THE PORTION
19 READING, PLEASE TAKE -- ALL THE WAY DOWN TO
20 BENEFICIARY ACCOUNT.

21 AND AGENT FINE IS THIS THE INFORMATION
22 YOU WERE JUST CONVEYING REGARDING THE AMOUNT OF THE
23 WIRE?

24 A. YES.

25 Q. FOR HOW MUCH?

1 A. \$300,000.

2 Q. WHO IS THE BENEFICIARY NAME LISTED?

3 A. ANDY YAN.

4 Q. MS. BURNEY IF YOU COULD SIMILARLY CALL UP
5 EXHIBIT 224 -- YOUR PAGE 33. THANK YOU.

6 AND AGAIN, THE DATE OF THIS DOCUMENT,
7 AGENT FINE AT THE VERY TOP

8 A. I THINK IT SAYS MAY 7TH, 2006.

9 Q. IF YOU GO DOWN TO THE BOTTOM PORTION, WHERE IT
10 HAS VOICE LOG. IT INDICATES VOICE LOG BY.

11 A. MR. HU.

12 Q. AND IF YOU COULD GO TO THE SIGNATURE ON THE
13 LEFT-HAND SIDE. AND WHOSE SIGNATURE DO YOU
14 UNDERSTAND THAT TO BE?

15 A. ALBERT HU'S.

16 Q. AND THEN MR. FINE IF YOU COULD NOW CALL YOUR
17 ATTENTION TO THE FAX LINES AT THE BOTTOM OF 279
18 AND -- 2779 AND 2781. AND MS. BURNEY IF YOU COULD
19 CALL YOUR ATTENTION TO THE BOTTOM OF THE DOCUMENT,
20 THE FAX LINES LISTED THERE.

21 WHAT DATE IS LISTED THERE, AGENT FINE ON
22 THE FAX LINES

23 A. MAY 7, 2007. AND THE ACCOUNT STATEMENT IS FOR
24 CREDIT SWISS ALSO HAD THIS AS A 2007 TRANSACTION.
25 I BELIEVE THE DATE OF 2006 IS AN ERROR.

1 Q. THAT'S THE SAME FOR 2779 AND 2781?

2 A. YES.

3 Q. THE NEXT CATEGORY APPEARS TO BE A WHITE
4 CATEGORY FOR FIRESIDE USA, AGENT FINE?

5 A. YES.

6 Q. WHAT IS THAT A REFERENCE TO?

7 A. MONEY SENT TO AN ACCOUNT AT U.S. BANK AND
8 FIRESIDE USA.

9 Q. AND HOW MUCH, APPROXIMATELY, WAS THAT AMOUNT
10 OF THE PORTION OF MR. VERDIELL'S \$2 MILLION?

11 A. \$474,9685.

12 A. WAS THAT ACCOUNT BASED IN THE UNITED STATES.

13 Q. YES. EVEN THOUGH THE MONEY HAD BEEN
14 TRANSFERRED FROM THE UNITED STATES TO SINGAPORE?

15 A. CORRECT.

16 Q. OF THAT \$474,000 PLUS, WHAT HAPPENED TO THE
17 MAJORITY OF MONEY THAT WENT INTO THAT FIRESIDE USA
18 ACCOUNT?

19 A. MOST OF IT WAS TRANSFERRED TO ANOTHER ACCOUNT
20 IN THE CONTROL OF ALBERT HU.

21 Q. THAT WAS IN WHAT BANK?

22 A. I WOULD HAVE TO SEE THE STATEMENTS.

23 Q. CERTAINLY, WE CAN SHOW THAT. IF WE COULD SHOW
24 ON THE SCREEN, MS. BURNEY, EXHIBIT 242, AT PAGES 91
25 TO 95 BATES 7776. IF WE COULD ENLARGE THE TOP

1 PORTION OF THE DOCUMENT. THIS IS THE FIRESIDE USA
2 ACCOUNT YOU WERE TALKING ABOUT A MOMENT AGO.

3 A. THIS WAS THE ORIGINAL \$474,000.

4 Q. AND THE ACCOUNT GOES ON FURTHER, EXHIBIT 227.
5 SO IF WE COULD LOOK AT THAT DOCUMENT AS WELL,
6 MS. BURNEY. I'M SORRY, BEGINNING AT PAGE 15.
7 THESE ARE THE CREDIT SUISSE ENTRIES AS WELL?

8 A. THAT'S CORRECT.

9 Q. SO BASED ON YOUR REVIEW OF THE ACCOUNT
10 MATERIAL FOR FIRESIDE USA AND THEN THE TRANSFERS
11 INTO THE FURTHER ACCOUNT CONTROLLED BY MR. HU, WAS
12 ANY OF THAT MONEY USED TO PURCHASE SECURITIES?

13 A. IT WAS NOT.

14 Q. MS. BURNEY, IF YOU COULD RETURN BACK TO
15 GOVERNMENT EXHIBIT 271.

16 NEXT CATEGORY ON YOUR CHART, AGENT FINE
17 APPEARS TO BE FOR SECURITIES

18 A. THAT'S CORRECT.

19 Q. FOR APPROXIMATELY \$410,000?

20 A. YES. 410,717.89 WAS USED TO PURCHASE
21 SECURITIES AS OF JUNE 17, 2007.

22 Q. AND SO IN FACT THERE WAS A TRADING GOING ON IN
23 SECURITIES FOR AT LEAST A PORTION OF MR. VERDIELL'S
24 MONEY?

25 A. YES.

1 Q. HOW MUCH DID THAT AMOUNT TO APPROXIMATELY,
2 PERCENTAGE WIDE?

3 A. ABOUT 21 PERCENT OF HIS MONEY.

4 Q. NOW, AGENT FINE ARE YOU FAMILIAR WITH
5 GOVERNMENT EXHIBIT NUMBER 12 THE PPM FOR THE
6 FIRESIDE LS FUND?

7 A. YES.

8 Q. DOES IT PROVIDE THAT ONLY 21 PERCENT OF THE
9 INVESTOR'S MONEY WOULD GO TO SECURITIES?

10 A. NO.

11 Q. NOW, WE ARE GOING TO FINISH WITH THIS CHART
12 AGENT FINE. BUT BEFORE I GO ON I WANT TO ASK YOU,
13 OF THAT \$410,000, JUST SO WE CAN BE CLEAR, WHAT
14 HAPPENED TO THOSE SECURITIES ULTIMATELY THAT WERE
15 USED, WHAT WAS THE END RESULT OF THOSE SECURITIES?
16 DID ANY OF THOSE MONEYS END UP BEING RETURNED TO
17 MR. VERDIELL?

18 A. NO.

19 Q. THOSE SECURITIES WERE TOLD OVER TIME, AS WE
20 ARE GOING TO SEE IN A FEW MOMENTS IN YOUR
21 TESTIMONY?

22 A. THEY WERE SOLD, YES.

23 Q. AND DID ANY OF THOSE PROCEEDS, WERE THEY
24 RETURNED TO MR. VERDIELL?

25 A. NO.

1 Q. AND THAT'S BASED ON YOUR REVIEW OF THE CREDIT
2 SWISS COULD RECORDS?

3 A. THAT'S CORRECT.

4 Q. SO TURNING NOW TO THE NEXT CATEGORY IN YOUR
5 CHART THE FOREST GREEN OF \$280,000?

6 A. YES. \$280,000 WAS TRANSFERRED IN THE NAME OF
7 CAM PRIVILEGE VISION MANAGEMENT, ALSO, CREDIT
8 SWISS. CREDIT SUISSE.

9 Q. HOW DO YOU KNOW THAT? HOW DID YOU DETERMINE
10 IT WAS A CAMBRIDGE VISION MANAGEMENT ACCOUNT. YOU
11 CAN SEE THE 280,000 ON THE ACCOUNT STATEMENT AND
12 YOU CAN LOOK AT TRANSFER RECORD?

13 Q. WHERE WAS THIS CAMBRIDGE VISION MANAGEMENT
14 LOCATED?

15 A. CREDIT SWISS IN SINGAPORE.

16 Q. SO IT WAS ALSO A CREDIT SUISSE ACCOUNT IN
17 SINGAPORE?

18 A. YES.

19 Q. AND DID DEFENDANT ALSO HAVE CONTROL OF THE
20 CAMBRIDGE VISION MANAGEMENT ACCOUNT?

21 A. YES.

22 Q. DID YOU HAVE A CHANCE TO REVIEW THE CAMBRIDGE
23 VISION MANAGEMENT ACCOUNT AT CREDIT SUISSE?

24 A. I DID.

25 Q. DID ANY OF MR. VERDIELL'S MONEY USED TO

1 PURCHASE SECURITIES?

2 A. NO.

3 Q. DID ANY OF THE MONEY THAT WENT TO THE
4 CAMBRIDGE VISION MANAGEMENT ACCOUNT EVER MAKE ITS
5 WAY BACK TO MR. VERDIELL?

6 A. NO.

7 Q. WHAT'S THE LIGHT GRAY COLOR THERE AT THE TOP
8 OF YOUR CHART FOR 160,000?

9 A. YES. THAT'S \$160,000 TO YILI LIU. THE 30 YOU
10 ALSO SEE ON THE 30TH, ANDY YAN'S TIMES TWO, THOSE
11 ARE ACTUALLY WIRE TRANSFER FEES IT'S NOT BEING
12 TRANSFERRED TO THAT PERSON, HOWEVER THAT FULL
13 AMOUNT IS MARK VERDIELL'S MONEY, SO I INCLUDED THE
14 FULL AMOUNT THERE.

15 Q. SO THE ODD NUMBERS AT THE END OF THOSE LARGE
16 AMOUNTS ARE SIMPLY THE FEES ASSOCIATED WITH THE
17 TRANSFERS?

18 A. THAT'S RIGHT.

19 Q. SO AGAIN YOU DETERMINED THERE WAS ADDITIONAL
20 WIRES TRANSFERRED TO YILI LIU?

21 A. YES.

22 Q. WERE YOU ABLE TO VIEW ANY WIRE DOCUMENTS WITH
23 THOSE TRANSFERS?

24 A. YES.

25 Q. THEN AGENT FINE IF WE COULD LOOK AT

1 EXHIBIT 224 AT BATES NUMBER 2784. IF WE COULD
2 ENLARGE THIS DOCUMENT. WHAT'S THE DATE ON THIS
3 DOCUMENT, AGENT FINE?

4 A. MAY 16, 2007.

5 Q. AND HOW MUCH -- COULD YOU ACTUALLY READ AGENT
6 FINE THIS PORTION INTO THE RECORD?

7 A. PLEASE TAKE THIS LETTER AS MY INSTRUCTION TO
8 REMIT USD, \$160,000, USD, 160,000 ONLY, FROM THE
9 SUBJECT A/C TO THE FOLLOWING:

10 Q. THEN THE BENEFICIARY NAMED DOWN BELOW?

11 A. YILI LIU.

12 Q. AND THEN MS. BURNEY, IF YOU COULD ENLARGE THE
13 BOX IN THE MIDDLE PORTION OF THE DOCUMENT, THANK
14 YOU. AGAIN THERE'S ANOTHER VALIDATION ON CLIENT'S
15 FAX INSTRUCTION?

16 A. YES.

17 Q. VOICE LOGGED WITH?

18 A. YES.

19 Q. WHOSE NAME IS WRIT THEN THERE WITH THE VOICE
20 LOG ENTRY?

21 A. MR. HU.

22 Q. AND AGAIN, IF YOU COULD, MS. BURNEY, ENLARGE
23 THE SIGNATURE PORTION IMMEDIATELY NEXT TO THAT BOX.

24 WHOSE SIGNATURE DO YOU RECOGNIZE THAT TO
25 BE?

1 A. ALBERT HU.

2 Q. IF WE COULD NOW RETURN TO AGENT FINE'S CHART
3 AT EXHIBIT 271, MS. BURNEY. THERE APPEARS TO BE A
4 REFERENCE AT THE VERY BOTTOM, AGENT FINE, WITH AN
5 ASTERISK AND A NUMBER AND A DATE. WHAT'S THAT A
6 REFERENCE TO?

7 A. SO AS OF 6-19-2007, NOT ALL OF MARK VERDIELL'S
8 MONEY HAD BEEN SPENT. IN FACT THERE WAS \$74,195.26
9 REMAINING.

10 Q. AND AGAIN, YOU TOLD US THAT, EARLIER THAT
11 JUNE 19TH DATE IS SIGNIFICANT BECAUSE ADDITIONAL
12 EVENTS OCCURRED ON JUNE 20TH?

13 A. THAT'S RIGHT.

14 Q. SO AGAIN WHAT HAPPENED ON JUNE 20TH?

15 A. BOB LIN WIRES INTO THE SAME ACCOUNT \$250,000.

16 Q. SO DID YOU SEE ANY INDICATION BASED ON YOUR
17 REVIEW OF THE CREDIT SUISSE DOCUMENTS IN QUESTION
18 THAT WERE RELATED TO FIRESIDE, THAT THERE WAS ANY
19 SEPARATION OR DIVISION BETWEEN MR. VERDIELL'S
20 BALANCE OF 74,195.26 AND THE QUARTER MILLION FROM
21 MR. LIN?

22 A. NO.

23 Q. JUST SO WE ARE CLEAR, AGAIN, I THINK YOU
24 ALREADY SAID THIS, BUT I WANT TO UNDERSTAND YOUR
25 TESTIMONY AGENT FINE, THE 74,000 PLUS IN THE

1 ACCOUNT, THAT'S SEPARATE FROM THE VALUE OF THE
2 SECURITIES OF 410,000?

3 A. THAT'S CORRECT.

4 Q. AND --

5 A. JUST BECAUSE YOU SAID THE VALUE OF THE
6 SECURITIES IT'S NOT THE VALUE AS OF 6-19, IT'S HOW
7 MUCH YOU WERE PURCHASED. SO YOU COULD PURCHASE AND
8 IT COULD HAVE CHANGED VALUE.

9 Q. SO THAT'S HOW MUCH THEY WERE PURCHASED FOR AND
10 REMAINED IN THE SECURITIES FORM AS OF JUNE 19TH?

11 A. CORRECT.

12 Q. MS. BURNEY IF WE COULD GO TO EXHIBIT 272.

13 SO THERE APPEAR TO BE TWO BOXES HERE ON
14 YOUR CHART ON EXHIBIT 272, CORRECT, AGENT FINE?

15 A. YES.

16 Q. AND JUST SO WE ARE CLEAR YOU HAD THE \$74,000
17 PLUS ESSENTIALLY IN CASH, CORRECT?

18 A. CORRECT.

19 Q. FROM MR. VERDIELL'S MONEY?

20 A. CORRECT.

21 Q. PLUS THE VALUE OF THOSE SECURITIES. AFTER
22 JUNE 20TH WHEN MR. LIN'S QUARTER MILLION DOLLARS
23 WAS ALSO NOW IN THE CREDIT SUISSE BEING ACCOUNT IN
24 SINGAPORE, THERE AFTER WERE THOSE SECURITIES SOLD
25 OVER TIME?

1 A. THEY WERE.

2 Q. AND DID THE PROCEEDS GO BACK INTO THE CREDIT
3 SUISSE ACCOUNT, THE CASH SIDE OF THE ACCOUNT?

4 A. YES.

5 Q. AND DID THOSE PROCEEDS THEN GO BACK TO, GO TO
6 MR. VERDIELL OR MR. LIN?

7 A. NO.

8 Q. WHAT IN GENERAL TERMS HAPPENED TO THOSE, THE
9 MONEYS THAT WERE NOW MIXED TOGETHER OR COMMINGLED
10 AFTER JUNE 20TH, 2007?

11 A. IN GENERAL TERMS, THE MONEYS IN THE ACCOUNT TO
12 INCLUDE THE SECURITIES, WERE DEPLETED BY
13 OCTOBER 23RD, 2007.

14 Q. AND WHAT IS YOUR CHART ON THE TOP HALF, IT
15 SAYS DIVERSIONS OF \$100,000 BETWEEN 6-20-07 AND
16 10-1-07?

17 A. CORRECT.

18 Q. THESE WERE IN YOUR VIEW THE MORE SIGNIFICANT
19 AMOUNTS TRANSFERRED OUT?

20 A. THEY ARE ALL THE AMOUNTS OF HUNDRED THOUSAND
21 DOLLARS OR GREATER.

22 Q. SOME OF THE LARGEST ONES IN THAT TIME FRAME?

23 A. CORRECT.

24 Q. AND ON JUNE 28TH, 2007, WHAT HAPPENED?

25 A. THERE WAS A HUNDRED THOUSAND DOLLAR WIRE TO

1 THE FIRESIDE USA ACCOUNT AT U.S. BANK.

2 Q. AND AGAIN THAT \$30 REFERENCE AT THE TAIL END
3 OF THAT TRANSFER?

4 A. IT'S A WIRE FEE.

5 Q. THEN TRANSFERS ON 8-30-07 AND 9-5-07?

6 A. YES. ON 8-30 THERE WAS A HUNDRED THOUSAND
7 DOLLAR WIRE TO ASENQUA VENTURES MANAGEMENT AT
8 WASHINGTON MUTUAL. AND THEN ON SEPTEMBER 5TH,
9 2007, A HUNDRED \$10,030 AGAIN TO THAT STAPLE SAME
10 ASENQUA ACCOUNT.

11 Q. AND THAT WASHINGTON MUCH ACCOUNT WAS THAT THE
12 SAME ONE WE TALKED ABOUT THAT RECEIVED IT FROM
13 FIRESIDE USA?

14 A. YES.

15 Q. NOW YOUR CHART STOPS AT 10-1-07. WHY DID YOU
16 BREAK THIS EXHIBIT INTO TWO DIFFERENT CHARTS WHAT
17 HAPPEN IT IS ON OR AROUND THAT DATE?

18 A. ANOTHER INVESTOR WIRES IN MONEY.

19 Q. AND WHO IS THAT INVESTOR?

20 A. DR. WA-FU CHEN.

21 Q. HOW MUCH THAT WAS FOR?

22 A. \$270,000.

23 Q. SO IF I'M UNDERSTANDING YOUR TESTIMONY AND
24 FOLLOWING IT, FIRST AS OF JUNE 19TH THERE'S ROUGHLY
25 \$74,000 IN CASH, THE REMAINING CASH FROM

1 MR. VERDIELL'S TWO MILLION DOLLAR WIRE. THEN
2 MR. LIN'S QUARTER MILLION DOLLAR COMES INTO THE
3 ACCOUNT ON JUNE 20TH. AND YOU ALREADY TOLD US
4 EARLIER THERE WAS NO REAL SEPARATION BETWEEN THOSE
5 TWO POTS OF MONEY, CORRECT?

6 A. THAT'S CORRECT.

7 Q. AND NOW, MR. CHEN'S MONEY COMES IN AS WELL?

8 A. CORRECT.

9 Q. AND AGAIN NO SEPARATION BETWEEN THESE THREE
10 CLIENT ACCOUNTS?

11 A. THAT'S RIGHT.

12 Q. THEN WHAT HAPPENS AFTER THAT BETWEEN
13 OCTOBER 2ND AND THE REST OF OCTOBER OF 2007?

14 A. BY OCTOBER 23RD ALL OF THE MONEY IS GONE.

15 Q. AND THERE ARE ADDITIONAL LARGE TRANSFERS OF
16 MONEY OUT OF THE ACCOUNT IN OCTOBER 2007?

17 A. CORRECT.

18 Q. SO YOU HAVE AN ENTRY HERE OF OCTOBER 18, 2007?

19 A. YES.

20 Q. WHAT'S HAPPENING ON THAT DATE?

21 A. THERE'S A HUNDRED \$10,000 WIRE TO VIEW CHINA
22 ENTERPRISE CORP, CHINA TRUST BANK ACCOUNT.

23 Q. AND ANOTHER ENTRY ON OCTOBER 23, 2007?

24 A. YES. \$250,000 WIRE TO PRIOR INVESTOR JOE YE.

25 Q. NOW AT THE BOTTOM OF YOUR CHART YOU HAVE

1 ANOTHER ASTERISK ABOUT AND A DOLLAR AMOUNT, WHAT'S
2 THAT A REFERENCE TO?

3 A. SO THE INVESTMENT ACCOUNT HAD A FRACTIONAL
4 SHARE OF ONE OF THE SECURITIES STILL IN IT AND IT
5 ACTUALLY STAYS IN IT FOR A LONG PERIOD OF TIME. I
6 DON'T KNOW WHY. BUT THERE WAS A LARGER PORTION, A
7 LARGE NUMBER OF SHARES IN A PARTICULAR SECURITY IT
8 WAS SOLD AND FOR SOME REASON THERE'S A HALF A SHARE
9 LEFT IN THE ACCOUNT.

10 AND AS OF OCTOBER 31ST, 2007, THAT
11 APPROXIMATELY HALF A SHARE IS VALUED AT \$2,503.

12 Q. OTHER THAN THE FRACTIONAL SHARE OF THE
13 INVESTMENT SIDE OF CREDIT SUISSE SINGAPORE FIRESIDE
14 ACCOUNT, YOU INDICATE THE BALANCE WAS OTHERWISE
15 DOWN TO ZERO?

16 A. RIGHT. EVERY OTHER SECURITY HAS BEEN SOLD AND
17 BEEN TRANSFERRED BY OCTOBER 23RD, 2007.

18 Q. YOU ALSO JUST SAID A MOMENT AGO THAT THE
19 \$200,503 FRACTIONAL SHARE OF THE INVESTMENT ACCOUNT
20 AT SOME POINT DOLLAR AFTER WAS ALSO CONVERTED TO
21 CASH?

22 A. IT WAS CONVERTED TO SOMETHING OTHER THAN
23 SECURITY. IT WAS SOLD FOR CASH --

24 Q. IT WAS MADE LIQUID?

25 A. CORRECT.

1 Q. DID THAT SMALL AMOUNT EVER RETURN BACK TO
2 MR. VERDIELL?

3 A. NO.

4 Q. OR MR. LIN?

5 A. NO.

6 Q. OR MR. CHEN?

7 A. NO.

8 Q. AND MR. FINE I WANT TO CALL YOUR ATTENTION TO
9 GOVERNMENT EXHIBIT 16. AND GOVERNMENT EXHIBIT 11.
10 THESE ARE THE YEAR END STATEMENTS FOR MR. VERDIELL
11 AND MR. LIN THAT WE LOOKED AT EARLIER ALREADY IN
12 EVIDENCE. DATED DECEMBER 2007.

13 IF YOU COULD NOW ENLARGE THE TOP PORTION
14 OF THE DOCUMENT, MS. BURNEY. AGENT FINE HAVE SEEN
15 THIS DOCUMENT BEFORE?

16 A. YES.

17 Q. WHAT'S THE STATEMENT DATE ON THE DOCUMENT?

18 A. DECEMBER 31ST, 2007.

19 Q. WHO WAS BASED ON THE ADDRESS, WHO WAS
20 RECEIVING THIS DOCUMENT?

21 A. MR. VERDIELL.

22 Q. AND MS. BURNEY IF YOU COULD NOW ENLARGE THE
23 SOCIETAL VALUE SECTION OF THE DOCUMENT. BASED ON
24 THE DOCUMENT PROVIDED FROM MR. HU TO MR. VERDIELL,
25 WHAT WAS MR. VERDIELL'S VALUE AS REPORTED TO HIM AT

1 THAT TIME?

2 A. \$2,439,772 FORTY CENTS.

3 Q. WHAT SIGNATURES ARE ON THE BOTTOM OF THIS
4 DOCUMENT, AGENT FINE?

5 A. IT SAYS ANTHONY POL AND ALBERT HU PHD.

6 Q. NOW MS. BURNEY IF YOU COULD TURN SIMILARLY TO
7 GOVERNMENT EXHIBIT 11 ALREADY IN EVIDENCE. AND
8 BLOWING UP THE TOP PORTION OF THE DOCUMENT.

9 WHAT IS THE STATEMENT DATE OF THIS
10 DOCUMENT

11 A. DECEMBER 31ST, 2007.

12 Q. SAME TIME FRAME FOR MR. VERDIELL, APPARENTLY?

13 A. YES.

14 Q. WHO WAS THE RECIPIENT FOR THIS DOCUMENT BASED
15 ON THE ADDRESSEE ON THE LEFT-HAND SIDE?

16 A. FU-YUAN LIN.

17 Q. ALSO KNOWN AS BOB LIN?

18 A. CORRECT.

19 Q. THEN MS. BURNEY IF YOU COULD NOW ENLARGE THE
20 SECTION ON THE NEXT PAGE I BELIEVE. WHERE IT SAYS
21 TOTAL VALUE. STILL ON EXHIBIT 11.

22 WHAT DOES THE TOTAL VALUE REFLECTED IN
23 MR. LIN'S YEAR END 2007 STATEMENT

24 A. CAN YOU MAKE IT A LITTLE BIGGER. 1, 711,
25 567.52.

1 Q. AND MS. BURNEY IF YOU COULD AGAIN ENLARGE THE
2 BOTTOM OF THE DOCUMENT WITH THE SIGNATURES.

3 WHAT SIGNATURES ARE ON THIS DOCUMENT,
4 EXHIBIT 11, AGENT FINE

5 A. IT SAYS ANTHONY POL AND ALBERT HU.

6 Q. IF I'M DOING MY MATH CORRECTLY, AGENT FINE YOU
7 JUST MENTIONED THE TOTAL VALUE REFLECTED IN
8 MR. VERDIELL'S STATEMENT WAS IN EXCESS OF
9 2.4 MILLION?

10 A. YES.

11 Q. THE TOTAL VALUE REFLECT INDEED MR. VERDIELL'S
12 YEAR END STATEMENT FOR MR. HU WAS 1.7 MILLION?

13 A. YES.

14 Q. AND THAT --

15 THE COURT: YOU MISSPOKE, I THINK.

16 MR. LUCEY: I'M SORRY, MR. LIN'S
17 STATEMENT IN EXHIBIT 11 WAS IN EXCESS OF
18 1.7 MILLION?

19 THE WITNESS: YES.

20 Q. THAT WOULD ADD TO APPROXIMATELY IN EXCESS OF
21 \$4 MILLION?

22 A. CORRECT.

23 Q. AND BASED ON YOUR REVIEW OF THE CREDIT SUISSE
24 DOCUMENTS THAT RECEIVED MR. VERDIELL AND MR. LIN'S
25 WIRES IN 2007, WHAT WAS THE AT MOST THE VALUE OF

1 THOSE INVESTMENT ACCOUNTS AND CASH ACCOUNTS IN OR
2 ABOUT OCTOBER 31ST, 2007?

3 A. AT MOST IT'S \$2,503.

4 Q. AND SO BASED ON YOUR REVIEW OF THE FINANCIAL
5 RECORDS, DO YOU HAVE ANY REASON TO BELIEVE THE
6 FINANCIAL STATEMENTS YOU LOOKED AT, EXHIBIT 11 AND
7 EXHIBIT 17 REFLECT THE TRUE VALUES OF THE HOLDING
8 OF MR. LIN AND MR. VERDIELL OF 2007?

9 MR. FONG: OBJECTION. FOUNDATION.
10 SPECULATION.

11 THE COURT: OVERRULED.

12 THE WITNESS: I DO NOT THINK THEY
13 ACCURATELY REFLECT THE BALANCE OF MR. VERDIELL AND
14 MR. LIN'S INVESTMENT.

15 MR. LUCEY: YOUR HONOR, IF I COULD HAVE
16 JUST A MOMENT.

17 NO FURTHER QUESTIONS, YOUR HONOR.

18 THE COURT: ALL RIGHT.

19 WE WILL TAKE A RECESS FOR 15 MINUTES.

20 (WHEREUPON A RECESS WAS TAKEN.)

21 (WHEREUPON, THE FOLLOWING PROCEEDINGS
22 WERE HELD IN THE PRESENCE OF THE JURY:)

23 THE CLERK: PLEASE BE SEATED AND COME TO
24 ORDER.

25 THE COURT: MR. FONG, DO YOU HAVE ANY

1 QUESTIONS?

2 MR. FONG: YES, I DO.

3 THANK YOU, YOUR HONOR.

4
5 **CROSS-EXAMINATION BY MR. FONG**

6
7 BY MR. FONG:

8 Q. GOOD AFTERNOON, AGENT FINE. AS YOU KNOW I
9 REPRESENT MR. ALBERT HU. I HAVE A COUPLE OF
10 QUESTIONS FOR YOU.

11 AGENT FINE, YOU TESTIFIED A LITTLE BIT
12 EARLIER THIS AFTERNOON ABOUT, I BELIEVE GOVERNMENT
13 EXHIBIT 11 AND 18, AMONG OTHERS, BUT DO YOU
14 REMEMBER EXHIBITS 11 AND 18? THEY ARE THE FIRESIDE
15 STATEMENTS, QUARTERLY STATEMENTS TO, I BELIEVE
16 RESPECTIVELY MR. BOB LIN AND MR. JUAN MARK
17 VERDIELL, DO YOU REMEMBER THOSE DOCUMENTS?

18 A. I REMEMBER TESTIFYING ABOUT FIRESIDE
19 STATEMENTS I DON'T REMEMBER TESTIFYING ABOUT
20 EXHIBIT NUMBERS.

21 Q. DO YOU HAVE THE EXHIBITS IN FRONT OF YOU?

22 A. NOT THOSE EXHIBITS.

23 Q. IF I MAY PUBLISH. THIS IS ONE OF THE ONES IN
24 EVIDENCE.

25 LET ME SHOW YOU, FIRST OF ALL, EXHIBIT

1 NUMBER 11. YOU CAN SEE EXHIBIT 11, IT IS THE
2 FIRESIDE SUMMARY OF ACCOUNT FOR DECEMBER 31ST,
3 2007, FOR MR. LIN. CAN YOU SEE THAT

4 A. I CAN SEE THE TOP. AND I DEFINITELY RECOGNIZE
5 IT AS THE FIRESIDE.

6 Q. YOU KNOW WHAT, LET ME TRY THIS, MAYBE THIS
7 WILL BE EASIER. I APOLOGIZE. LET ME JUST SHOW YOU
8 THE ACTUAL DOCUMENTS.

9 A. THANK YOU.

10 Q. NOW YOU HAVE IN FRONT OF YOU NOW A COPY OF AN
11 EXHIBIT THAT'S ALREADY BEEN ADMITTED INTO EVIDENCE.
12 I BELIEVE EXHIBIT 11; IS THAT CORRECT?

13 A. I DO.

14 Q. AND THAT IS THE QUARTERLY STATEMENT FROM I
15 BELIEVE TOWARD THE ENDS OF 2007 FOR MR. BOB LIN?

16 A. YES.

17 Q. OKAY. AND NOW, THAT PARTICULAR DOCUMENT THE
18 FIRESIDE LS FUND QUARTERLY STATEMENT, THAT DOES NOT
19 CONTAIN ANY PARTICULAR REFERENCE TO ANY BANK OR
20 INSTITUTION, DOES IT?

21 A. NO, IT DOES NOT.

22 Q. NOW THE EXHIBIT YOU TESTIFIED TO EARLIER, THE
23 BOTTOM LINE NUMBER IS \$1.7 MILLION?

24 A. THAT'S CORRECT.

25 Q. IT DOES NOT SAY THAT \$1.7 MILLION IS SITTING

1 IN ANY PARTICULAR BASIC ACCOUNT FROM THAT DOCUMENT,
2 DOES IT?

3 A. NO.

4 Q. OKAY. AND LET ME SHOW YOU THE ONE-PAGE
5 DOCUMENT THAT'S ALREADY ADMITTED INTO EVIDENCE AS
6 GOVERNMENT EXHIBIT 18.

7 A. OKAY.

8 Q. AND DO YOU SEE THAT IN FRONT OF YOU, SIR?

9 A. I HAVE IT IN FRONT OF ME.

10 Q. AND THAT IS A, I BELIEVE THE FIRST QUARTER OF
11 2008 STATEMENT FOR MR. MARK VERDIELL; IS THAT
12 CORRECT?

13 A. THAT'S CORRECT.

14 Q. OKAY. AND I BELIEVE THE BOTTOM LINE NUMBER IS
15 ABOUT \$2.4 MILLION?

16 A. THAT'S CORRECT.

17 Q. MORE OR LESS. I'M NOT GIVING YOU AN EXACT
18 NUMBER, BUT IT'S AROUND 2.4, RIGHT?

19 A. UH-HUH.

20 Q. NOW THAT DOCUMENT DOES NOT REFERENCE ANY
21 PARTICULAR BANK ACCOUNT, DOES IT?

22 A. NO.

23 Q. IT DOES NOT MENTION ANYTHING ABOUT THESE
24 CREDIT SUISSE ACCOUNT OR ANY CREDIT SUISSE
25 ACCOUNTS, RIGHT?

1 A. NO.

2 Q. OKAY. AND FROM THAT DOCUMENT A PERSON LOOKING
3 AT THAT CANNOT TELL WHERE THE MONEY MIGHT BE
4 SITTING; IS THAT CORRECT?

5 A. FROM LOOKING AT THIS DOCUMENT, NO.

6 Q. OKAY. NOW YOU ALSO TESTIFIED TO SOME EARLIER
7 STATEMENTS, I THINK THERE WAS -- WELL, LET ME SHOW
8 YOU THE ASENQUA BETA FUND. I'M GOING TO SHOW YOU A
9 DOCUMENT THAT'S BEEN ALREADY ADMITTED AS GOVERNMENT
10 EXHIBIT 3 WHICH I BELIEVE YOU TESTIFIED TO A LITTLE
11 BIT EARLIER. IT'S THE ASENQUA BETA FUND SUMMARY OF
12 ACCOUNT FOR THE FIRST QUARTER OF 2005. AND IT'S
13 THE STATEMENT FOR MR. LIN -- OR ACTUALLY MR. LIN'S
14 TRUST SHOWING A BALANCE OF ABOUT \$203,000.

15 AND -- HAVE YOU HAD A CHANCE TO LOOK AT
16 THAT DOCUMENT, SIR?

17 A. I HAVE.

18 Q. NOW, THAT DOCUMENT DOES NOT SAY THAT THE
19 \$203,000 IS SITTING, WAS SITTING AT THAT TIME AT
20 THE ASENQUA ACCOUNT THAT YOU TESTIFIED TO A LITTLE
21 BIT EARLIER WITH BANK OF AMERICA, DOES IT?

22 A. THIS DOCUMENT DOES NOT SAY WHAT BANK ACCOUNT
23 IS BEING USED.

24 Q. SO LOOKING AT THAT DOCUMENT ALONE, A PERSON
25 CANNOT TELL WHERE THE \$203,000 MIGHT BE SITTING; IS

1 THAT CORRECT?

2 A. THAT'S CORRECT.

3 Q. AND TO THE BEST OF YOUR RECOLLECTION, WOULD
4 THAT BE TRUE FOR THE OTHER QUARTERLY STATEMENT THAT
5 IS YOU TESTIFIED TO A LITTLE BIT EARLIER, THAT THEY
6 DO NOT REFERENCE OR MENTION ANY SPECIFIC BANK
7 ACCOUNT?

8 A. I THINK THAT'S TRUE. I DON'T KNOW IF I CAN
9 TESTIFY TO IT ABSOLUTELY.

10 Q. BUT CERTAINLY YOU DO NOT RECALL SEEING ON ANY
11 OF THOSE, TO THE BEST OF YOUR RECOLLECTION, ANY OF
12 THE OTHER QUARTERLY STATEMENT THAT IS YOU TESTIFIED
13 TO, YOU DO NOT RECALL SEEING ANY MENTION OF ANY
14 SPECIFIC BANK, RIGHT?

15 A. NO.

16 Q. OKAY. THANK YOU. NO, YOU DO NOT, RIGHT?

17 A. NO, I DO NOT.

18 Q. THANK YOU.

19 NOW, AGENT FINE, WHEN A PERSON, AN
20 INVESTOR INVESTS IN A HEDGE FUND, TYPICALLY WHAT
21 THAT PERSON IS DOING IS THAT HE OR SHE IS ACTUALLY
22 INVESTING IN A LIMITED PARTNERSHIP; IS THAT
23 CORRECT?

24 MR. LUCEY: OBJECTION, YOUR HONOR.
25 BEYOND THE SCOPE OF THE TESTIMONY.

1 THE COURT: I THINK IT TECHNICALLY IS,
2 BUT I WILL LET HIM ASK THE QUESTION AND THEN SEE
3 WHERE YOU ARE GOING.

4 THE WITNESS: THAT'S REALLY VAGUE. I
5 CAN'T ANSWER YOUR QUESTION IN GENERAL ABOUT ALL
6 HEDGE FUNDS IN THE WORLD. I CAN ANSWER ABOUT THESE
7 TWO SPECIFIC HEDGE FUNDS.

8 BY MR. FONG:

9 Q. IN THE COURSE OF YOUR INVESTIGATION OF THIS
10 CASE, YOU DID SOME STUDYING ON HOW HEDGE FUNDS
11 WORK?

12 MR. LUCEY: OBJECTION. VAGUE.

13 THE COURT: CAN YOU MAKE IT A LITTLE MORE
14 SPECIFIC.

15 MR. FONG: SURE.

16 Q. IN THE COURSE OF YOUR CASE, YOU HAD STUDIED ON
17 HOW HEDGE FUND ARE STRUCTURED; IS THAT CORRECT?

18 A. I WAS LOOKING AT THE DOCUMENTS GIVEN TO ME BY
19 THESE INVESTORS. I WENT THROUGH AND LOOKED AT ALL
20 THE REPRESENTATIONS THAT WERE MADE IN THERE AND
21 THEN I CONDUCTED INVESTIGATION TO SEE IF ANY OF
22 THOSE WERE TRUE.

23 Q. ALL RIGHT. SO CAN I TAKE FROM YOUR ANSWER
24 THAT YOU DID NOT INDEPENDENTLY FOR THE PURPOSE OF
25 THIS INVESTIGATION TRY TO STUDY HOW HEDGE FUNDS ARE

1 STRUCTURED OR SET UP; IS THAT CORRECT?

2 THE COURT: THAT'S AN AWFULLY BROAD
3 QUESTION AS TO ASSUMES THAT ALL HEDGE FUNDS ARE SET
4 UP THE SAME WAY.

5 MR. FONG: OKAY.

6 Q. IN LOOKING AT THIS CASE BESIDES THE DOCUMENTS
7 RELATING TO ASENQUA BETA AND FIRESIDE LS FUND, DID
8 YOU DO ANY STUDY OF ANY OTHER HEDGE FUNDS
9 STRUCTURES?

10 A. WOULD YOU INCLUDE TALKING TO EXPERTS ABOUT
11 THAT?

12 Q. YES.

13 A. OKAY. THEN YES.

14 Q. OKAY. IN THE COURSE OF YOUR INVESTIGATION,
15 DID YOU LEARN THAT WHEN AN INVESTOR INVESTS IN A
16 FUND, TYPICALLY WHAT HE OR SHE IS DOING ACQUIRING A
17 FRACTIONAL INTEREST IN A LIMITED PARTNERSHIP?

18 A. I CAN ONLY SPOKE TO THESE TWO SPECIFIC HEDGE
19 FUNDS.

20 Q. ALL RIGHT. IS THAT YOUR UNDERSTANDING OF
21 WHAT -- LET'S TAKE THEM ONE AT A TIME THEN. FOR
22 THE ASENQUA BETA FUND, THE STRUCTURE WAS SET UP AS
23 A LIMITED PARTNERSHIP; IS THAT CORRECT?

24 A. SHOW ME THE DOCUMENTS.

25 Q. I'M SIMPLY ASKING YOU FOR YOUR BEST

1 RECOLLECTION. IF YOUR BEST RECOLLECTION IS YOU DO
2 NOT KNOW WITHOUT SEEING THE DOCUMENTS, THAT'S FINE?

3 A. I DO NOT KNOW.

4 Q. OKAY. DO YOU HAPPEN TO KNOW IF THE FIRESIDE
5 LS FUND IS SET UP AS A -- EXCUSE ME, I'M LOSING MY
6 THOUGHT HERE.

7 DO YOU HAPPEN TO KNOW IF THE FIRESIDE LS
8 FUND IS SET UP AS A LIMITED PARTNERSHIP INVESTMENT?

9 A. I WOULD HAVE TO LOOK AT THE DOCUMENT.

10 Q. OKAY. NOW, FROM YOUR EXAMINATION OF THE
11 PRIVATE PLACEMENT MEMORANDUM OF THE, LET'S SAY THE
12 ASENQUA BETA FUND, DO YOU RECALL SEEING THAT IT WAS
13 THE -- THE FUND WAS SET UP AS A FEEDER FUND INTO A
14 MASTER FUND?

15 A. I DON'T RECALL OFF THE TOP OF MY HEAD. YOU
16 CAN SHOW ME THE DOCUMENT IF YOU WOULD LIKE.

17 Q. SURE. AND WE WILL GET TO THAT BUT I JUST WANT
18 TO ASK YOU WHAT IT IS THAT YOU DO REMEMBER.

19 DO YOU RECALL FROM YOUR INVESTIGATION AND
20 EXAMINATION OF DOCUMENTS IF THE FIRESIDE LS FUND
21 WAS SET UP AS A FEEDER FUND INTO A MASTER FUND?

22 A. FROM MY EXAMINATION OF THE DOCUMENTS AND MY
23 INVESTIGATION, I RECALL THE PPM SAYING THAT THE
24 MONEY WAS GOING TO BE INVESTED. THAT'S MY
25 EXAMINATION OF THE DOCUMENT.

1 I RECALL FROM THE INVESTIGATION THAT THE
2 MONEY WAS NOT INVESTED.

3 MR. FONG: I WANT TO MOVE TO STRIKE THAT.
4 LAST ANSWER AS BEING UNRESPONSIVE, YOUR HONOR.

5 THE COURT: WOULDN'T THAT -- WASN'T THAT
6 ANSWERING -- YOU ARE QUESTIONING HIM -- UNLESS I
7 MISSED SOMETHING, I THOUGHT IT WAS RESPONSIVE.

8 MR. FONG: THAT'S FINE, YOUR HONOR.

9 Q. LET ME SHOW YOU A DOCUMENT THAT WAS ADMITTED
10 INTO EVIDENCE WHEN MR. BOB LIN TESTIFIED. THAT'S
11 DEFENDANT'S EXHIBIT 503.

12 AGENT FINE, DO YOU SEE THAT DOCUMENT IN
13 FRONT OF YOU?

14 A. I DO.

15 Q. MAY I DIRECT YOUR ATTENTION TO PAGE EIGHT OF
16 THAT DOCUMENT, EXHIBIT -- DEFENDANT'S EXHIBIT 503
17 WHICH IS IN EVIDENCE.

18 A. OKAY.

19 Q. AND YOU ARE ON PAGE EIGHT?

20 A. I AM.

21 Q. OKAY NOW, DIRECTING YOUR ATTENTION TO THE VERY
22 LAST PARAGRAPH OF THAT PAGE, IT HAS THE HEADING OF
23 INVESTMENT STRUCTURE. DO YOU SEE THAT HEADING,
24 SIR?

25 A. YES.

1 Q. OKAY. THEN TO THE RIGHT OF IT, IT SAYS THE
2 FUND WILL INVEST SUBSTANTIALLY ALL OF ITS ASSETS
3 THROUGH A MASTER FUND/FEED FUND STRUCTURE IN THE
4 ASENQUA MASTER FUND LP. DO YOU SEE THAT?

5 A. I SEE IT.

6 Q. OKAY. NOW DOES THAT REFRESH YOUR RECOLLECTION
7 OF WHETHER OR NOT WHEN YOU WERE INVESTIGATING THIS
8 CASE, DID YOU LEARN ABOUT A MASTER FUND/FEED FUND
9 STRUCTURE INSOFAR AS IT APPLIES TO THE ASENQUA BETA
10 FUND?

11 A. IT DOES NOT REFRESH MY RECOLLECTION.

12 Q. ALL RIGHT. AS YOU SIT HERE TODAY, DO YOU HAVE
13 AN UNDERSTANDING OF HOW A MASTER FUND AND FEEDER
14 FUND ARRANGEMENT WORKS FOR A HEDGE FUND?

15 A. MAYBE JUST A LAYMAN'S UNDERSTANDING, I'M NOT
16 AN EXPERT.

17 Q. OF COURSE. WHAT IS YOUR LAYMAN'S
18 UNDERSTANDING?

19 A. EXACTLY WHAT IT SAYS HERE:

20 THE FUND WILL INVEST SUBSTANTIALLY ALL OF
21 ITS ASSETS THROUGH A MASTER FUND/FEEDER FUND
22 STRUCTURE IN THE ASENQUA MASTER FUND. INVESTMENTS
23 NOT INVESTED IN THE MASTER FUND WILL PROVIDE FOR
24 OPERATING EXPENSES OF THE OTHER INVESTMENT FUNDS
25 STRUCTURED TO MEET THE NEEDS OF VARIOUS U.S. TAX

1 EXEMPT NON U.S. INVESTORS TOGETHER WITH THE FUND
2 THE INVESTMENT VEHICLES, ALSO INVEST IN THE MASTER
3 FUND AND WILL BEAR A PROPORTIONATE SHARE OF THE
4 MASTER FUND'S EXPENSES.

5 Q. SO YOUR UNDERSTANDING DERIVES FROM THE
6 PARAGRAPH YOU JUST READ; IS THAT CORRECT?

7 A. THAT'S CORRECT.

8 Q. OKAY. AND WOULD YOUR ANSWER BE THE SAME FOR
9 THE FIRESIDE LS FUND?

10 A. I BELIEVE SO. I MEAN, I RELIED ON EXPERTS IN
11 RELATION TO THIS TYPE OF PORTION OF THE PPM.

12 Q. OKAY. NOW LET'S TALK ABOUT THE ASENQUA
13 CAPITAL BANK ACCOUNT WITH BANK OF AMERICA RELATING
14 TO, I BELIEVE, GOVERNMENT EXHIBIT 263, THE FIRST --
15 DO YOU HAVE EXHIBIT 263 IN FRONT OF YOU?

16 A. YES.

17 Q. OKAY. AND THAT'S THE PIE CHART, IF YOU WILL,
18 OF MR. BOB LIN'S INVESTMENT DOLLARS, RIGHT?

19 A. HIS FIRST \$100,000 INVESTMENT.

20 Q. OKAY. AND THE BANK ACCOUNT -- THAT MONEY THAT
21 MR. LIN WIRED HIS INVESTMENT INTO WAS THE ASENQUA
22 CAPITAL BANK OF AMERICA ACCOUNT; IS THAT CORRECT?

23 A. THAT'S CORRECT.

24 Q. OKAY. AND DID YOU EXAMINE THE CALENDAR YEAR,
25 THE ACTIVITIES WITHIN THAT ACCOUNT FOR THE ENTIRE

1 CALENDAR YEAR OF 2005?

2 A. PERSONALLY, I DO NOT.

3 Q. OKAY. DO YOU KNOW, AS YOU SIT HERE, IF THERE
4 WERE OTHER DEPOSITS INTO THAT ACCOUNT FOR THAT
5 YEAR, 2005?

6 A. I BELIEVE THERE WERE.

7 Q. OKAY. WOULD THE -- DO YOU HAPPEN TO KNOW OR
8 REMEMBER IF THE TOTAL AMOUNT OF DEPOSIT INTO THAT
9 ACCOUNT WAS MORE OR LESS THAN \$500,000 FOR THE
10 YEAR?

11 A. I DON'T KNOW OR REMEMBER.

12 Q. OKAY. DO YOU RECALL SEEING DEPOSITS INTO THAT
13 ACCOUNT MADE BY ALBERT HU?

14 A. I DO NOT.

15 Q. THEN AS YOU SIT HERE YOU DO NOT KNOW HOW MUCH,
16 IF ANY, MONEY ALBERT HU TRANSFERRED OR DEPOSITED
17 INTO THAT ACCOUNT; IS THAT CORRECT?

18 A. NOT OFF THE TOP OF MY HEAD, NO.

19 Q. DO YOU HAVE AN ESTIMATE?

20 A. I DON'T.

21 MR. FONG: NOW YOUR HONOR, I THINK MY
22 AGREEMENT WITH THE GOVERNMENT. I WANT TO ASK AGENT
23 FINE SOME QUESTIONS BEYOND HIS SCOPE OF DIRECT, IF
24 THAT'S OKAY WITH THE COURT.

25 THE COURT: IT'S ALL RIGHT WITH ME IF YOU

1 CLEARED IT WITH COUNSEL.

2 MR. LUCEY: YES, YOUR HONOR, HE HAS.

3 BY MR. FONG:

4 Q. AGENT FINE, YOU WERE HERE PRESENT IN COURT
5 WHEN MR. VERDIELL TESTIFIED; IS THAT CORRECT?

6 A. YES.

7 Q. OKAY. AND YOU, AS THE LEAD CASE AGENT IN THIS
8 CASE, YOU SAT IT ON SEVERAL INTERVIEWS WITH
9 MR. VERDIELL; IS THAT CORRECT?

10 A. I DID.

11 Q. OKAY. AND THE FIRST ONE WAS IN DECEMBER, ON
12 DECEMBER 24TH, 2008, DOES THAT SOUND RIGHT?

13 A. I REMEMBER THAT BECAUSE IT WAS CHRISTMAS EVE.

14 Q. OKAY. AND THERE WERE A COUPLE OF OTHER
15 INTERVIEWS AFTER THAT, RIGHT?

16 A. YES.

17 Q. OKAY. AND THERE WAS ONE ON APRIL 30TH, 2009?

18 A. I'M NOT GOING TO REMEMBER THE REST OF THE
19 DATES.

20 Q. SURE. I'M GOING TO SHOW YOU A DOCUMENT THAT'S
21 BEEN MARKED AS DEFENDANT'S EXHIBIT 541-A, AS IN
22 APPLE. I WILL JUST GIVE YOU AN OPPORTUNITY TO LOOK
23 AT THAT DOCUMENT. AND I WILL REPRESENT TO YOU,
24 AGENT FINE THAT THIS IS A COMPILATION OF SEVERAL
25 DIFFERENT FBI 302 REPORTS THAT WERE PREPARED FROM

1 MR. VERDIELL'S INTERVIEWS.

2 FIRST OF ALL, DO YOU RECOGNIZE THE
3 DOCUMENT THAT I PUT IN FRONT OF YOU, DEFENDANT'S
4 EXHIBIT 541-A?

5 A. YES.

6 Q. DIRECTING YOUR ATTENTION TO, ABOUT THE SIXTH
7 PAGE, IT HAS A BATES NUMBER OF HU-001556; DO YOU
8 SEE THAT, SIR?

9 A. YES.

10 Q. IF YOU COULD LOOK AT THAT FOR JUST A MOMENT?

11 A. OKAY.

12 Q. OKAY. DOES THAT REFRESH YOUR RECOLLECTION OF
13 WHETHER OR NOT YOU AND OTHERS INTERVIEWED
14 MR. VERDIELL ON APRIL 30TH, 2009?

15 A. YES. BUT WAS YOUR PRIOR QUESTION ABOUT
16 WHETHER THIS WAS INTERVIEWED IN SEQUENCE -- ARE YOU
17 SAYING THIS IS THE NEXT INTERVIEW?

18 Q. I BELIEVE IT IS, BUT IF YOU HAVE A DIFFERENT
19 RECOLLECTION, PLEASE SHARE WITH ME?

20 A. I DO HAVE A DIFFERENT RECOLLECTION.

21 Q. OKAY. SO THERE WAS -- WAS THERE AN INTERVIEW
22 BETWEEN THE DECEMBER 24, 2008, WHICH AS YOU POINTED
23 OUT YOU REMEMBERED BECAUSE IT'S CHRISTMAS EVE, AND
24 THE APRIL 30TH, 2009, DATE?

25 A. I BELIEVE SO.

1 Q. DO YOU RECALL IF YOU PREPARED AN FBI 302
2 REPORT FROM THAT INTERVIEW.

3 A. I PREPARED AN AFFIDAVIT.

4 Q. OKAY. DO YOU REMEMBER IF THERE WAS AN FBI
5 REPORT?

6 A. NO, I DID AN AFFIDAVIT, NOT THE 302.

7 Q. NOW DIRECTING YOUR ATTENTION TO THE NEXT PAGE,
8 IF YOU COULD TAKE A LOOK AT THAT?

9 A. OKAY.

10 Q. IF YOU COULD LOOK AT THAT AND SEE -- LET ME
11 ASK A FOUNDATIONAL QUESTION. DO YOU REMEMBER AFTER
12 THE APRIL 30TH, 2009, INTERVIEW, WAS THERE A
13 SUBSEQUENT INTERVIEW?

14 A. YES.

15 Q. OKAY. AND THAT WAS ON OR ABOUT MAY 30TH,
16 2012?

17 A. THERE WAS AN INTERVIEW ON THAT DATE.

18 Q. OKAY. WAS THAT -- TO THE BEST OF YOUR
19 RECOLLECTION THAT WAS THE NEXT INTERVIEW AFTER THE
20 APRIL 30TH, 2009?

21 A. I'M NOT SURE.

22 Q. ALL RIGHT. BUT YOU'RE SURE, OF COURSE, FROM
23 HAVING JUST REVIEWED THE DOCUMENT IN FRONT OF YOU
24 THAT YES, THERE WAS AN INTERVIEW ON MAY 30, 2012,
25 RIGHT?

1 A. YES.

2 Q. AND THEN THE LAST INTERVIEW THAT I AM AWARE OF
3 WAS ON JUNE 12, 2012. IF YOU COULD TAKE A LOOK AT
4 THE NEXT TWO PAGES.

5 A. OKAY.

6 Q. DOES THAT REFRESH YOUR RECOLLECTION OF WHETHER
7 OR NOT THERE WAS A -- THE LAST INTERVIEW WITH
8 MR. VERDIELL THAT YOU HAD WAS ON JUNE 12TH, 2012?

9 A. I BELIEVE THAT WAS THE LAST INTERVIEW.

10 Q. OKAY. AND THAT WAS JUST RIGHT BEFORE HE
11 TESTIFIED; IS THAT CORRECT?

12 A. THAT'S CORRECT.

13 Q. OKAY. NOW, BEFORE JUNE 12, 2012, I COUNTED AT
14 LEAST THREE OR MORE INTERVIEWS THAT YOU HAD WITH
15 MR. VERDIELL; IS THAT CORRECT?

16 A. THAT'S CORRECT.

17 Q. OKAY. NOW, IN THE COURSE OF THOSE INTERVIEWS
18 BEFORE JUNE 12TH, 2012, MR. VERDIELL DID NOT EVER
19 SAY TO YOU THAT HE HAD LOOKED AT THE FIRESIDE
20 PRIVATE PLACEMENT MEMORANDUM AND RELIED ON CERTAIN
21 PROVISIONS IN THERE?

22 A. I THINK THAT'S INCORRECT. I THINK HE DID.

23 Q. LET ME THEN DIRECT YOUR ATTENTION TO THE FIRST
24 FIVE PAGES OF EXHIBIT 541-A.

25 A. OKAY.

1 Q. THAT IS THE -- YOUR REPORT FROM THE FIRST
2 INTERVIEW ON DECEMBER 24TH, 2008; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. AND IT RUNS FROM BATES NUMBER 1770 TO, I
5 BELIEVE, 1774; IS THAT CORRECT?

6 A. YES.

7 Q. OKAY. NOW, IF YOU COULD TAKE A MOMENT AND
8 READ THAT, NOW, NOTHING IN THAT REPORT TALKS ABOUT
9 YOUR RECORDING THE FACT THAT MR. VERDIELL HAD TOLD
10 YOU THAT HE HAD LOOKED AT THE PRIVATE PLACEMENT
11 MEMORANDUM AND RELIED ON CERTAIN PROVISIONS; IS
12 THAT CORRECT?

13 A. I NEED A SECOND TO READ THIS.

14 Q. SURE, OF COURSE. I APOLOGIZE.

15 MR. LUCEY: YOUR HONOR, WHILE MR. FONG IS
16 REVIEWING THAT DOCUMENT, COULD WE APPROACH?

17 (SIDE-BAR DISCUSSION OFF THE RECORD.)

18 MR. LUCEY: SO YOUR HONOR, CERTAINLY
19 MR. FONG CAN GO INTO TALKING ABOUT HIS RECOLLECTION
20 VERSUS WHAT IT WOULD SAY, THE QUESTION IS THERE'S
21 THE ISSUE THAT MR. FINE MADE REFERENCE TO A MOMENT
22 AGO REGARDING PREPARING AN AFFIDAVIT. THAT
23 AFFIDAVIT WAS IN CONNECTION WITH THE EXTRADITION
24 ISSUE WITH MR. HU IN REGARD TO SOME OF THE TOPICS
25 WITH MR. VERDIELL.

1 MR. FAZIOLI: IN THAT AFFIDAVIT THERE'S
2 REFERENCE TO AN AFFIDAVIT BY MR. VERDIELL AND
3 MR. LIN WHERE THEY BOTH INDICATE THAT THEY HAD
4 REVIEWED THE PPM AND ALL THESE OTHER VARIOUS
5 DOCUMENTS. DOCUMENTS -- I'M CONCERNED THE LINE OF
6 QUESTIONING IS -- THIS IS STUFF THAT AGENT FINE
7 NEVER HEARD FROM THE VICTIM INVESTORS UNTIL LATE IN
8 THE GAME AND THAT PERHAPS WAS THE FIRST TIME THEY
9 TESTIFIED TO THAT. THAT'S NOT CORRECT. AND I KNOW
10 WE HAVE CONCERNS IN THIS LINE OF QUESTIONING HE'S
11 OPENING THE DOOR TO US ASKING HIM ABOUT, DID
12 MR. VERDIELL COMMUNICATE TO YOU THAT THESE VARIOUS
13 FACTORS WERE IMPORTANT TO HIM. AND IN THE CONTEXT
14 OF PREPARING AN AFFIDAVIT FOR THE DEFENDANT'S
15 EXTRADITION TO THE UNITED STATES.

16 THE COURT: WHAT DO YOU HAVE TO SAY IN
17 REFERENCE TO EXTRADITION? CAN YOU JUST SAY YOU
18 PREPARED THE AFFIDAVIT FOR COURT PROCEEDINGS.

19 MR. FONG: YOUR HONOR, I THINK, I WILL
20 CUT THIS SHORT IN THAT I DON'T INTEND TO ASK AGENT
21 FINE ANYTHING BEYOND THIS PARTICULAR 302 IN
22 DECEMBER OF 2008 WHICH I BELIEVE PREDATES THE
23 AFFIDAVIT.

24 THE COURT: IT WOULD ENABLE THEM TO -- I
25 MEAN, THE IMPRESSION THAT LEAVES THEM WITH IS THAT

1 IT WAS NEVER SOMETHING THAT THEY HAD. SO I THINK
2 YOU ARE ENTITLED TO BRING IT IN.

3 MR. FAZIOLI: WE CAN SAY WITH REGARD TO
4 LEGAL PROCEEDINGS OR WITH REGARD TO COURT
5 PROCEEDINGS. WHATEVER PATH OR WORD YOU WANT TO
6 USE.

7 THE COURT: THAT'S FINE.

8 BY MR. FONG:

9 Q. AND AGENT FINE, JUST ONLY BECAUSE WE JUST
10 CONCLUDED A SHORT CONFERENCE, WHEN YOU HAVE HAD A
11 CHANCE TO LOOK THROUGH THE FIVE PAGE REPORT, YOU
12 WOULD MIND LETTING ME KNOW. I DIDN'T MEAN TO
13 INTERRUPT YOU.

14 A. I'M ON PAGE FOUR.

15 Q. THANK YOU.

16 A. OKAY.

17 Q. YOU HAVE NOW HAD AN OPPORTUNITY TO READ THE
18 FIVE-PAGE REPORT THAT IS THE FIRST FIVE PAGES OF
19 EXHIBIT 541-A; IS THAT CORRECT?

20 A. I HAVE.

21 Q. AND THAT'S YOUR FBI 302 REPORT FROM YOUR
22 NOVEMBER 24TH, 2008, INTERVIEW WITH MR. VERDIELL;
23 IS THAT CORRECT?

24 A. IT IS.

25 Q. OKAY. HAVING READ THAT, DOES THAT REFRESH

1 YOUR RECOLLECTION OF WHETHER OR NOT AT THAT
2 PARTICULAR MEETING, DID MR. VERDIELL TELL YOU THAT
3 HE HAD CAREFULLY REVIEWED THE FIRESIDE PLACEMENT
4 MEMORANDUM AND HAD RELIED ON CERTAIN PROVISIONS OF
5 THAT MEMORANDUM?

6 A. SO IF YOU LOOK AT PAGE FIVE OF THE REPORT IT
7 REFERENCES THE ONE-A AND ITEMS PROVIDED. COULD I
8 TAKE A LOOK AT THAT TO HELP REFRESH YOUR
9 RECOLLECTION.

10 Q. I'M SAD TO SAY I DON'T THINK I EVER GOT --

11 A. YOU HAVE, BUT --

12 Q. I DON'T HAVE IT IN FRONT OF ME.

13 A. WELL, MY CONCERN WITH ANSWERING THAT QUESTION
14 IS I'M NOT A HUNDRED PERCENT SURE. AS I RECALL
15 THIS INTERVIEW IS ON DECEMBER 24TH CHRISTMAS EVE.
16 THERE'S SOME URGE SEE FOR US TO MEET. WE DID MEET.
17 I THINK, BUT I'M NOT SURE IF THE PPM CAME AT THIS
18 MEETING OR A LATER MEETING BECAUSE HE HAD TO
19 COMPILE IT ALL TOGETHER.

20 SO IT'S POSSIBLE IT WAS NOT TALKED ABOUT.
21 BUT WITHOUT SEEING THAT MY RECOLLECTION IS NOT
22 REFRESHED AND I WOULD NEED TO.

23 Q. OKAY. BUT OTHER THAN THE FACT THAT THERE WAS
24 A MENTION OF MR. VERDIELL GIVING YOU CERTAIN
25 DOCUMENTS, IS THERE ANYTHING IN THIS REPORT THAT

1 REFERENCES THE FACT THAT MR. VERDIELL HAD TOLD YOU
2 THAT HE HAD CAREFULLY REVIEWED THE FIRESIDE PRIVATE
3 PLACEMENT MEMORANDUM AND HAD RELIED ON SPECIFIC
4 PROVISIONS OF THAT MEMORANDUM?

5 A. IT'S NOT WRITTEN IN THE PAGES YOU PROVIDED ME.

6 Q. NOW YOU, OF COURSE, ARE AN EXPERIENCED FBI
7 AGENT?

8 A. YES.

9 Q. AND OF COURSE YOU ARE TRAINED TO PREPARE
10 REPORTS OF INTERVIEWS OF WITNESSES THAT YOUR
11 INVESTIGATION; IS THAT CORRECT?

12 A. YES.

13 Q. OKAY. AND OF COURSE YOU WANT TO BE, YOU'RE IN
14 FACT, YOUR RESPONSIBILITY IS TO MAKE SURE THAT YOU
15 RECORD ANYTHING THAT YOU CONSIDERED TO BE IMPORTANT
16 IN TERMS OF, FROM THE INTERVIEW SO THAT YOU CAN
17 PROPERLY TRANSCRIBE THAT ON TO YOUR REPORT LATER
18 ON; IS THAT CORRECT?

19 A. SO IT'S IMPORTANT TO LOOK AT THE TIME FRAME
20 HERE BECAUSE, YES, I WOULD DO SOMETHING THAT'S
21 IMPORTANT.

22 IF YOU ARE REFERRING TO REVIEWING THE PPM
23 AND ASKING THE QUESTIONS ABOUT IS IT IMPORTANT
24 THAT -- IF YOU HAD KNOWN THIS WAS FALSE, WOULD YOU
25 HAVE INVESTED, THAT KIND OF QUESTION, THIS IS THE

1 BEGINNING OF THE INVESTIGATION. I PROBABLY DIDN'T
2 KNOW IS THAT PROSKAUER WASN'T THE ATTORNEY, THAT
3 CASTILLO, LYN DIDN'T EXIST. I PROBABLY DIDN'T KNOW
4 ALL THESE THINGS AT THIS TIME. SO IT PROBABLY WAS
5 NOT ASKED OR RECORDED.

6 Q. MY QUESTION IS BASED ON THIS REPORT, WHICH IS
7 FIVE PAGES, YOU DID NOT SEE ANY REFERENCE IN THERE
8 THAT MR. VERDIELL HAD TOLD YOU IN THAT MEETING AND
9 WHICH YOU REFERRED TO AS THE FIRST MEETING,
10 ANYTHING ABOUT THE FACT THAT HE HAD CAREFULLY READ
11 THE PRIVATE PLACEMENT MEMORANDUM FOR FIRESIDE LS
12 FUND AND HAD RELIED ON CERTAIN KEY PROVISIONS OF
13 THAT MEMORANDUM?

14 A. THIS IS A LONG QUESTION BUT THERE'S NOTHING
15 SPECIFIC ABOUT THE PPM IN THESE FIVE PAGES.

16 Q. NOW LET ME DIRECT YOUR -- FIRST OF ALL, DO YOU
17 RECALL HOW LONG THAT INTERVIEW WAS ON
18 DECEMBER 24TH, 2008?

19 A. NO, I DO NOT.

20 Q. OKAY. BUT YOU TOOK ENOUGH NOTES TRANSCRIBE
21 FIVE PAGES WORTH OF THE REPORT, RIGHT?

22 A. YES.

23 Q. WOULD THAT GIVE YOU AN ESTIMATE OF HOW LONG
24 WAS THE INTERVIEW ON THE BASIS OF THE FACT THAT YOU
25 HAD TRANSCRIBED FIVE PAGES?

1 A. I DON'T THINK SO.

2 Q. ALL RIGHT. ONE OF THE SUBJECTS YOU DID
3 DISCUSS WITH MR. VERDIELL AT THAT FIRST
4 DECEMBER 24TH INTERVIEW, WAS WHY DID HE MAKE THE
5 INVESTMENT WITH FIRESIDE LS FUND, RIGHT?

6 A. SO IT IS NOT A RECORDING OF WHAT I ASK HIM.
7 SO I CAN'T SAY FOR SURE THAT I ASKED HIM A SPECIFIC
8 QUESTION.

9 Q. I GUESS THAT WAS A POOR QUESTION ON MY PART,
10 LET ME TRY AGAIN, PLEASE BEAR WITH ME.

11 DO YOU RECALL AS YOU SIT HERE IF
12 MR. VERDIELL TOLD YOU WHY HE HAD MADE A DECISION TO
13 INVEST WITH FIRESIDE LS FUND?

14 A. WE MAY HAVE GONE INTO IT BRIEFLY. I THINK AT
15 A LATER TIME WE WENT INTO THE WHY MORE, GETTING THE
16 GENERAL FACTS DOWN.

17 Q. LET ME DIRECT YOUR ATTENTION THEN, IF I MAY,
18 TO THE SECOND PAGE OF THE DECEMBER 24TH, 2008, FBI
19 302 REPORT. IT CARRIES THE BATES STAMP NUMBER OF
20 1771. IF YOU COULD LOCATE THAT PAGE FOR ME, SIR?

21 A. OKAY.

22 Q. IF YOU COULD DIRECT YOUR ATTENTION TO THE
23 THIRD FULL PARAGRAPH, THE FIRST SENTENCE OF THE
24 THIRD FULL PARAGRAPH.

25 IF YOU COULD READ THAT FIRST SENTENCE TO

1 YOURSELF.

2 A. OKAY.

3 Q. HAVING READ THAT SENTENCE, WHICH IS THE FIRST
4 SENTENCE OF THE THIRD FULL PARAGRAPH ON PAGE TWO OF
5 THE DECEMBER 24TH 2008302 REPORT, DOES THAT REFRESH
6 YOUR RECOLLECTION OF WHETHER OR NOT AT THAT FIRST
7 MEETING MR. VERDIELL TOLD YOU WHY HE MADE A
8 DECISION TO INVEST IN THE FIRESIDE LS FUND?

9 A. THAT'S CONSISTENT WITH WHAT I JUST SAID THAT
10 WE BRIEFLY WENT INTO WHY.

11 I THINK THAT MR. VERDIELL EXPANDED ON
12 THIS IN THE COURSE OF THE JURY TRIAL. IT'S A VERY
13 SMALL SUBSECTION OF HIS ANSWER.

14 Q. OKAY. BUT READING THAT FIRST SENTENCE, DOES
15 THAT REFRESH YOUR RECOLLECTION THAT WHAT
16 MR. VERDIELL TOLD YOU, WHAT HE TOLD YOU AS TO WHY
17 HE MADE THE DECISION TO INVEST IN THE FIRESIDE LS
18 FUND WAS BECAUSE ONE, BASED ON HIS TRUST IN THE
19 OTHER INVESTORS. AND TWO, HIS CONVERSATIONS WITH
20 MR. HU AND MR. BOND.

21 A. YES, I THINK THAT'S ENTIRELY CONSISTENT WITH
22 WHAT MR. VERDIELL SAID AT TRIAL.

23 Q. SO THE ANSWER IS, I GATHER THEN, YOUR BEST
24 RECOLLECTION AS YOU SIT HERE HAVING JUST READ THAT
25 SENTENCE, YOUR RECOLLECTION IS THAT WHAT

1 MR. VERDIELL TOLD YOU AT THAT FIRST MEETING,
2 INTERVIEW, I SHOULD SAY ON DECEMBER 24TH, 2008,
3 THAT HE TOLD YOU THAT THE TWO REASONS THAT HE GAVE
4 YOU FOR INVESTING IN THE FIRESIDE LS FUND WAS ONE,
5 BASED ON HIS TRUST IN THE OTHER INVESTORS AND HIS
6 CONVERSATIONS WITH MR. HU AND MR. BOND; IS THAT
7 CORRECT?

8 A. YES. I THINK THAT THE CONVERSATIONS WITH HU
9 AND BOND IS WHAT HE EXPANDED ON. THE MEETINGS HE
10 HAD. THIS IS MY UNDERSTANDING OF HIM SO I CAN TELL
11 YOU WHAT I THINK. BUT WHAT I THINK IS I HEARD THE
12 SAME THING WHEN HE TESTIFIED HERE.

13 MR. FONG: YOUR HONOR, I WOULD MOVE TO
14 STRIKE THE LAST PART OF HIS ANSWER AS BEING
15 NONRESPONSIVE.

16 THE COURT: I WILL STRIKE THAT. PORTION.
17 BY MR. FONG:

18 Q. AGENT FINE, LET ME ASK YOU A SLIGHTLY
19 DIFFERENT QUESTION.

20 NOW, IN THE COURSE OF THAT FIRST --

21 THE COURT: LET ME JUST BACK UP. I
22 ASSUME YOU ARE TALKING ABOUT HIS COMMENT ABOUT
23 HEARING THE SAME THING?

24 MR. FONG: YES.

25 THE COURT: HIS STATEMENT THAT HE HEARD

1 THE SAME THING AT TRIAL, THAT'S UP TO THE JURY TO
2 DECIDE.

3 MR. FONG: ALL RIGHT.

4 THANK YOU, YOUR HONOR.

5 Q. AGENT FINE THEN, LET ME ASK YOU A SLIGHTLY
6 DIFFERENT QUESTION.

7 IN THAT FIRST INTERVIEW WITH
8 MR. VERDIELL, HE TOLD YOU THAT HE HAD -- HE VALUED
9 AND TRUSTED BOB LIN'S OPINION; IS THAT CORRECT?

10 A. HE SAID -- YES, HE DID.

11 Q. AND IN THAT FIRST MEETING ON DECEMBER 24TH,
12 2008, YOU AND MR. VERDIELL ALSO HAD A CHANCE TO
13 TALK ABOUT ANOTHER INVESTOR, A MR. ANDY YAN, Y-A-N;
14 IS THAT CORRECT?

15 A. I THINK I SAW THAT, HOLD ON ONE SECOND.

16 Q. SURE. IF I MAY DIRECT YOUR ATTENTION TO THE
17 FOURTH PAGE, BATES NUMBER 1773. THE SECOND
18 PARAGRAPH FROM THE BOTTOM.

19 A. I SEE IT. OKAY.

20 Q. NOW, HAVING READ THAT PARAGRAPH, DOES THAT
21 REFRESH YOUR RECOLLECTION WHETHER OR NOT
22 MR. VERDIELL HAD TOLD YOU ANYTHING ABOUT HIS
23 CONVERSATIONS WITH ANDY YAN?

24 A. YES.

25 Q. OKAY. AND WHAT MR. VERDIELL TOLD YOU WAS THAT

1 ANDY YAN WAS ANOTHER INVESTOR IN THE FIRESIDE FUND;
2 IS THAT CORRECT?

3 A. YES.

4 Q. AND THAT MR. VERDIELL TOLD YOU THAT ANDY YAN
5 HAD TOLD HIM THAT HE, ANDY YAN, HAD KNOWN ALBERT HU
6 AND THAT HE HAD NOT TRUSTED ALBERT HU AND HE HAD
7 KNOWN ALBERT HU TO BE A LIAR, BUT HE STILL, ANDY
8 YAN STILL INVESTED IN THE FIRESIDE FUND; IS THAT
9 CORRECT?

10 A. SO YOU SKIPPED A WORD WHEN YOU SAID IT. IT
11 SAYS LATER, AND I THINK THAT'S REFERRING TO THE
12 PARAGRAPH BEFORE. BUT OTHERWISE YES.

13 SO AFTER MR. VERDIELL IS PROGRESSIVELY
14 HAVING -- HE'S ALREADY COMING TO THE CONCLUSION
15 THAT THIS MIGHT BE A FRAUD, HIS MONEY MIGHT BE IN
16 TROUBLE. AFTER THAT POINT HE HAD A CONVERSATION
17 WITH MR. YAN WHO TOLD HIM ABOUT MR. HU'S TENDENCY
18 TO LIE.

19 Q. AND MR. YAN SAID THAT. BUT IN ADDITION TO
20 THAT, MR. YAN SAID I KNEW THAT MR. HU COULD NOT BE
21 TRUSTED AND I KNEW THAT HE LIED, BUT I STILL, I
22 ANDY YAN, STILL INVESTED WITH HIM THROUGH THE
23 FIRESIDE FUND; IS THAT CORRECT?

24 A. I'M SORRY, I'M NOT SURE HOW YOU PHRASED THAT.
25 I THINK IT'S DOUBLE HEARSAY. BUT YES.

1 MR. FONG: OKAY. THAT'S ALL I HAVE.

2 THANK YOU FOR YOUR PATIENCE, I APPRECIATE
3 IT.

4 MR. LUCEY: IF I COULD JUST HAVE A MOMENT
5 TO CONFER WITH MY CO-COUNSEL.

6 THE COURT: SURE.

7

8 **REDIRECT EXAMINATION BY MR. LUCEY**

9

10 BY MR. LUCEY:

11 Q. FIRST, MR. FINE, YOU JUST ANSWERED SOME
12 QUESTIONS IN REGARD TO YOUR INTERACTIONS WITH
13 MR. VERDIELL OVER TIME, BEGINNING IN 2008?

14 A. YES.

15 Q. AND MR. FONG ASKED YOU A NUMBER OF QUESTIONS
16 REGARDING THOSE INTERACTIONS?

17 A. YES.

18 Q. YOU INDICATE INDEED RESPONSE TO ONE OF HIS
19 QUESTIONS IN ADDITION TO THE 30 TWOS THERE ALSO
20 CAME A TIME WHERE YOU WERE INVOLVED IN PREPARING AN
21 AFFIDAVIT FOR THE COURT PROCEEDINGS?

22 A. YES.

23 Q. WHEN APPROXIMATELY DID THAT AFFIDAVIT OCCUR?

24 A. IN EARLY TO MID 2008.

25 Q. 2008 OR 2009?

1 A. I'M SORRY, 2009. LATE 2008 WHEN I HAD THE
2 FIRST CONVERSATION.

3 Q. AND AS PART OF THAT PROCESS DID YOU
4 COMMUNICATE WITH MR. VERDIELL REGARDING WHAT
5 INFLUENCED HIM REGARDING HIS INVESTMENTS IN THE
6 FIRESIDE FUND PRIOR TO INVESTING IN THE FIRESIDE
7 FUND?

8 A. I DID.

9 Q. AND DID MR. VERDIELL TELL YOU IN THE COURSE OF
10 PREPARING YOUR AFFIDAVIT THAT HE RELIED ON THE
11 FIRESIDE PPM AS BEING ACCURATE?

12 A. HE DID.

13 Q. DID YOU ALSO REVIEW OTHER DOCUMENTS AS WELL
14 WITH MR. VERDIELL?

15 A. YES.

16 Q. IN THE COURSE OF COMING TO AN UNDERSTANDING AS
17 TO WHAT HE HAD REVIEWED AND RELIED ON PRIOR TO
18 MAKING AN INVEST?

19 A. YES.

20 Q. DID THAT ALSO INCLUDE THE SUBSCRIPTION BOOKLET
21 AS WELL?

22 A. YES.

23 Q. ALSO IN REGARD TO THE QUESTION THAT IS
24 MR. FONG HAD JUST ASKED YOU IN REGARD TO MR. YAN, I
25 WANT TO MAKE SURE I UNDERSTAND, I THINK YOU WERE

1 TRYING TO CLARIFY AT LEAST YOUR RECOLLECTION OF
2 THAT PORTION OF THE INTERVIEW WITH MR. VERDIELL.

3 WHAT IS YOUR UNDERSTANDING AS TO WHAT
4 TIME FRAME MR. VERDIELL WAS TALKING ABOUT IN REGARD
5 TO THE STATEMENTS MADE BY MR. YAN?

6 A. THIS IS AFTER MR. VERDIELL'S CONCERN, HE'S
7 ALREADY INVESTED HE'S GOTTEN SEVERAL STATEMENTS,
8 HE'S CONCERNED ABOUT THE INVESTMENT.

9 Q. SO TELL ME IF I HAVE THIS RIGHT, AGENT FINE.
10 YOUR RECOLLECTION BASED ON YOUR REVIEW OF THE 302
11 HAS NOW REFRESHED YOUR RECOLLECTION, THE REFERENCE
12 THAT IS MR. VERDIELL MADE WITH HIS CONVERSATIONS
13 WITH MR. YAN AFTER HE INVESTED IN THE FIRESIDE
14 FUND?

15 A. CORRECT.

16 Q. AFTER TRYING TO RETRIEVE HIS FUNDS FROM
17 MR. HU?

18 A. YES.

19 Q. MR. FINE, YOU WERE ALSO ASKED SOME QUESTIONS
20 IN REGARD TO THE HEDGE FUNDS IN GENERAL. AND YOU
21 INDICATED THAT YOU WERE FOCUSED HERE ON THESE TWO
22 HEDGE FUNDS IN PARTICULAR, CORRECT?

23 A. THAT'S CORRECT.

24 Q. AND IN THE COURSE OF YOUR INVESTIGATION, DID
25 YOU -- I THINK YOU ALSO INDICATED, SORRY. TAKE A

1 STEP BACK. YOU ALSO INDICATED YOU HAD A CHANCE TO
2 CONFER WITH PEOPLE MORE KNOWLEDGEABLE ABOUT HEDGE
3 FUNDS AS WELL?

4 A. I DID.

5 Q. THAT WAS IN WHAT, IN THE CONTEXT OF TRYING TO
6 UNDERSTAND THESE TWO HEDGE FUNDS IN QUESTION HERE?

7 A. THAT'S CORRECT.

8 Q. SO IN THE COURSE OF YOUR INVESTIGATION, DID
9 YOU LEARN THAT THE DEFENDANT, MR. HU, RAN THE TWO
10 HEDGE FUNDS, ASENQUA BETA AND FIRESIDE LS FUND IN A
11 MANNER CONSISTENT WITH A LEGITIMATE HEDGE FUNDS?

12 MR. FONG: OBJECTION. SPECULATION.
13 HEARSAY. FOUNDATION.

14 MR. LUCEY: YOUR HONOR, THIS GOES TO THE
15 QUESTION RAISED BY MR. FONG ON CROSS-EXAMINATION.

16 THE COURT: I THINK YOU OPENED THE DOOR
17 ON THIS A LITTLE BIT. I WILL ALLOW IT.

18 I WILL ALLOW THIS QUESTION BUT I THINK
19 YOU DID SAY THAT HE DID NOT LEARN ABOUT HOW HEDGE
20 FUNDS OPERATE OTHER THAN THESE TWO.

21 BY MR. LUCEY:

22 Q. BASED ON YOUR EXPERIENCE DEALING WITH PRIOR
23 INVESTMENT FRAUDS AS WELL PRIOR TO COMING TO COURT
24 TODAY AND YOUR WORK ON THIS INVESTIGATION, CAN YOU
25 INDICATE WHETHER OR NOT IT WAS CONSISTENT OR

1 INCONSISTENT WITH HOW LEGITIMATE INVESTMENT FUNDS
2 OPERATE?

3 MR. FONG: SAME OBJECTION.

4 THE COURT: I WILL SUSTAIN THE OBJECTION.
5 I THINK THE JURY CAN DRAW IT'S CONCLUSIONS.
6 BY MR. LUCEY:

7 Q. AGENT FINE, YOU WERE ALSO ASKED QUESTIONS
8 REGARDING EXHIBIT 503 THAT WAS THE PPM FOR THE
9 ASENQUA BETA FUND?

10 A. YES.

11 Q. SHOWING YOU NOW, AGENT FINE, DEFENDANT'S
12 EXHIBIT 503. I CALL YOUR ATTENTION IN PARTICULAR
13 TO PAGE EIGHT OF THAT DOCUMENT.

14 A. OKAY.

15 Q. AND I CALL YOUR ATTENTION TO THE VERY FIRST
16 SENTENCE OF THAT DOCUMENT?

17 A. OKAY.

18 Q. WHERE IT SAYS, ON THE BOTTOM THE SECTION
19 READING INVESTMENT STRUCTURE AT THE BOTTOM OF PAGE
20 EIGHT. AND THE FIRST SENTENCE OF THAT PARAGRAPH TO
21 THE RIGHT OF THAT TITLE.

22 A. OKAY.

23 Q. COULD YOU READ THE FIRST PORTION OF THAT
24 PARAGRAPH BEGINNING WITH THE FUND WILL INVEST.

25 A. THE FUND WILL INVEST SUBSTANTIALLY ALL OF ITS

1 ASSETS.

2 Q. AND AGENT FINE, WERE YOU ABLE TO DETERMINE
3 WHETHER OR NOT, AT LEAST AS IT RELATES TO
4 MR. VERDIELL AND MR. LIN'S WIRES WHETHER
5 SUBSTANTIALLY ALL OF THE ASSETS RELATED TO PPM AND
6 FIRESIDE FUND WERE INVESTED?

7 MR. FONG: OBJECTION. VAGUE AND
8 AMBIGUOUS.

9 THE COURT: I WILL LET THAT QUESTION GO.

10 THE WITNESS: I FOUND TO THE CONTRARY. I
11 DO NOT THINK THAT SUBSTANTIALLY ALL OF MR. LIN AND
12 MR. VERDIELL'S INVESTMENTS WERE INVESTED.

13 Q. REGARDING THE QUESTION OF THE MASTER FEEDER
14 FUND ISSUE BY MR. FONG?

15 A. YES.

16 Q. WHEN YOU WERE LOOKING AT THE BANK OF AMERICA
17 ACCOUNTS FOR MR. LIN'S FIRST THREE WIRES THEN FOR
18 THE CREDIT SUISSE ACCOUNTS FOR MR. VERDIELL'S ONE
19 WIRE AND MR. LIN'S LAST WIRE. WE WENT THROUGH
20 EARLIER TODAY IN EXHIBITS 263 TO 272.

21 WERE YOU MAKING ANY DRAWING ANY
22 DISTINCTION OR FOR GOING REVIEWING ANY DOCUMENTS OR
23 BANK ACCOUNTS BECAUSE OF ANY ISSUE REGARDING THE
24 DESTINATION OF THE FUNDS IN QUESTION?

25 MR. FONG: OBJECTION. ARGUMENTATIVE.

1 THE WITNESS: NO.

2 MR. LUCEY: I WILL REPHRASE YOUR HONOR.

3 THE COURT: IF YOU DO THAT I WILL STRIKE
4 THE ANSWER.

5 Q. SO HE WAS ASKING YOU QUESTIONS ABOUT MASTER
6 AND FEEDER FUND, WAS YOUR ATTEMPT TO -- WHAT WAS
7 YOUR GOAL IN TERMS OF LOOKING AT THE BANK OF
8 AMERICA ACCOUNTS AND THE CREDIT SUISSE ACCOUNTS IN
9 QUESTION. WERE YOU LOOKING AT THE MONEY COMING IN
10 THEN FINDING OUT THERE AFTER ONCE IT HIT THE
11 ACCOUNT?

12 THE WITNESS: RIGHT. I WAS TRYING TO SEE
13 WHERE THE MONEY WENT.

14 BY MR. LUCEY:

15 Q. YOU WERE TRYING TO FOLLOW THE MONEY?

16 A. CORRECT.

17 Q. YOU WERE NOT ATTEMPTING TO EXCLUDE ANY BANK
18 ACCOUNT OR ANY DESTINATION BECAUSE IT WAS
19 CHARACTERIZED WITH A PARTICULAR NAME ON IT,
20 CORRECT?

21 A. NO.

22 MR. LUCEY: LET ME JUST CONFER WITH MY
23 CO-COUNSEL.

24 NO FURTHER QUESTIONS, YOUR HONOR.

25 MR. FONG: NOTHING FURTHER.

1 THE COURT: I JUST HAVE ONE QUESTION. IF
2 YOU LOOK AT EXHIBIT 263 AND THERE WAS THE
3 DISTRIBUTION OF BOB LIN'S FIRST \$100,000
4 INVESTMENT.

5 THE WITNESS: YES.

6 THE COURT: THE LARGEST PORTION OF YOUR
7 PIE CHART REFLECTS CHECKS OR CHECK CARD PURCHASES.

8 THE WITNESS: THAT'S CORRECT.

9 THE COURT: I WAS NOT SURE I UNDERSTOOD
10 WHAT DID YOU DO, IF ANYTHING, TO DETERMINE WHAT THE
11 CHECKS OR CHECK CARD PURCHASES WERE?

12 THE WITNESS: SO THERE'S TWO WAYS THAT
13 YOU COULD LOOK AT THE AND HOW I DID LOOK AT THAT.
14 ONE IS YOU SEE THE CHECK CARD PURCHASES ON THE
15 STATEMENT, FRY'S AND COSTCO. FOR THE CHECKS
16 THERE'S CANCELLED CHECKS THAT WERE ALSO PROVIDED BY
17 THE BANK.

18 AND WE GAVE AT LEAST ONE EXAMPLE MAYBE A
19 COUPLE EXAMPLES OF CHECKS WE RECEIVED

20 THE COURT: BUT DID YOU GO THROUGH ALL
21 THE CHECKS?

22 THE WITNESS: SO THERE ARE ACTUALLY SOME
23 CERTAIN CHECKS THAT THE BANK NO LONGER HAS. SO NO.
24 BUT ALL THE CHECKS I DID HAVE, YES.

25 THE COURT: ALL RIGHT. THANK YOU.

1 ANYTHING ELSE?

2 MR. LUCEY: NO, YOUR HONOR.

3 MR. FONG: NOTHING FURTHER.

4 THE COURT: ALL RIGHT. THANK YOU.

5 MR. FAZIOLI: WOULD THIS BE A GOOD TIME
6 FOR THE AFTERNOON BREAK?

7 THE COURT: WE CAN TAKE A BREAK. WHAT'S
8 YOUR SCHEDULE?

9 MR. FAZIOLI: I THINK WE ONLY HAVE ONE
10 MORE WITNESS.

11 THE COURT: ALL RIGHT. LET'S TAKE OUR
12 SECOND BREAK FOR 15 MINUTES.

13 IF YOU COULD JUST HANG ON FOR A SECOND,
14 TOO.

15 (WHEREUPON, THE FOLLOWING PROCEEDINGS
16 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

17 THE COURT: MR. FAZIOLI, WHO IS YOUR LAST
18 WITNESS?

19 MR. FAZIOLI: ANTHONY POLLACE.

20 THE COURT: HOW LONG DO YOU THINK HE WILL
21 TAKE ON DIRECT?

22 MR. FAZIOLI: MAYBE HALF AN HOUR,
23 40 MINUTES BUT WE WILL DEFINITELY TRY TO GET HIM IN
24 TODAY?

25 MR. FONG: I HIGHLY DOUBT MY

1 CROSS-EXAMINATION OF MR. POLLACE WILL BE MORE THAN
2 FIVE MINUTES, IF THAT, YOUR HONOR.

3 THE COURT: OKAY. THEN AFTER THAT, WHAT
4 DO YOU HAVE, EITHER SIDE HAVE, ANYTHING?

5 MR. FAZIOLI: I WOULD HAVE TO CONFER WITH
6 CO-COUNSEL BUT I ANTICIPATE WE WOULD REST AFTER MR.
7 POLLACK TESTIFIES.

8 THE COURT: MR. FONG, ASSUMING HE DOES
9 THAT?

10 MR. FONG: I ACTUALLY WAS ANTICIPATING
11 ONE MORE WITNESS, LINDA DANESH, THAT THE GOVERNMENT
12 WAS GOING TO CALL. IN LIGHT OF THE FACT THAT THE
13 GOVERNMENT IS NOT LIKELY TO CALL HER I HAVE TO
14 RECONFIGURE A COUPLE OF THINGS BUT I SHOULD BE ABLE
15 TO PUT ON A VERY SHORT CASE TOMORROW MORNING, IN
16 TERMS OF, IF MS. DANESH DOES NOT TESTIFY.

17 THE COURT: MY CONCERN IS THAT I HATE TO
18 HAVE THE JURY COME IN FOR TEN MINUTES OR HALF AN
19 HOUR AND GO HOME.

20 SHOULD WE HAVE THEM COME IN WEDNESDAY
21 MORNING AND JUST FINISH UP THEN?

22 MR. FONG: I WAS JUST GOING TO SUGGEST
23 THAT, YOUR HONOR.

24 MR. LUCEY: SO THE IDEA IS YOUR HONOR, WE
25 WOULD COME IN PERHAPS TOMORROW AND DEAL WITH JURY

1 INSTRUCTIONS JUST THE COURT AND COUNSEL. THEN
2 MR. FONG WOULD PUT ON HIS MATTER THEN WE WOULD GO
3 TO CHARGING AND CLOSING?

4 THE COURT: RIGHT.

5 MR. FAZIOLI: I THINK IT WOULD DEPEND ON
6 WHAT THE DEFENSE ANTICIPATES ITS CASE IS GOING TO
7 BE. IF THE DEFENDANT IS GOING TO START TESTIFYING
8 WEDNESDAY MORNING, IT WOULD EFFECT THE EFFICIENCY
9 OF THE CLOSING. AND I THINK IT WOULD BE DEPENDENT
10 ON WHO WAS GOING TO TESTIFY WEDNESDAY. IF HE'S
11 GETTING A COUPLE OF CHECKS INTO EVIDENCE AND
12 THERE'S A FIVE-MINUTE SESSION THEN I THINK WOULDN'T
13 NECESSARILY MATERIALLY AFFECT THE CLOSING THAT
14 MUCH.

15 THE COURT: I THINK THAT'S A LEGITIMATE
16 CONCERN.

17 MR. FONG: YOUR HONOR, AS I STAND HERE, I
18 DO NOT ANTICIPATE CALLING MR. HU AS A WITNESS.
19 OBVIOUSLY IT'S HIS CHOICE, BUT AS I STAND HERE I DO
20 NOT ANTICIPATE DOING THAT.

21 I DO NOT ANTICIPATE HAVING ANY LIVE
22 WITNESSES AS OF RIGHT NOW. I THINK I WILL PUBLISH
23 CERTAIN DOCUMENTS. BUT AGAIN, LIKE I SAID BEFORE,
24 YOUR HONOR, I NEED TO DO A LITTLE BIT OF RETHINKING
25 IN LIGHT OF THE FACT THAT THE GOVERNMENT IS NOT

1 GOING TO BE PUTTING ON MS. LINDA DANESH AS A
2 WITNESS.

3 OBVIOUSLY THAT'S THE GOVERNMENT'S RIGHT.
4 BUT AS OF LAST WEEK MY UNDERSTANDING WAS THAT
5 MS. DANESH WOULD BE ONE OF THE THREE WITNESSES
6 TODAY. SO I WOULD BE -- I NEED TO --

7 THE COURT: WHAT ABOUT -- I KNOW I SAID I
8 WOULDN'T DO THIS BEFORE, BUT WHAT ABOUT DOING
9 CLOSINGS TOMORROW? COME IN AT, SAY, 8:30 AND WE
10 WILL DO THE INSTRUCTIONS AND THEN FINISH UP
11 WHATEVER YOU NEED TO FINISH UP AND THEN GO TO
12 ARGUMENT.

13 MR. FAZIOLI: I PROBABLY PREFER TO DO THE
14 CLOSINGS ON WEDNESDAY IF AT ALL POSSIBLE. BUT IF
15 THE COURT WOULD LIKE US TO DO CLOSINGS TOMORROW, WE
16 CAN. I HAVE SOME CONCERNS ABOUT CLOSING AFTER THE
17 DEFENSE IS PUTTING ON A CASE, SOMEWHAT. PLUS I
18 ALSO DON'T KNOW IF -- I GUESS OUR PREFERENCE WOULD
19 TO BE DO IT ON WEDNESDAY. IF WE HAVE TO DO IT
20 TOMORROW WE CAN GET IT DONE BY TOMORROW.

21 MR. FONG: MY PREFERENCE TOO WOULD BE TO
22 CLOSE ON WEDNESDAY.

23 THE COURT: WELL, I THINK JUST IN
24 FAIRNESS TO THE JURY, CAN YOU DECIDE BY THE END OF
25 THE DAY WHETHER YOU ARE GOING TO CALL ANY LIVE

1 WITNESS OR WHETHER YOU ARE JUST GOING TO PUT ON
2 EVIDENCE?

3 MR. FONG: YOUR HONOR, IF I COULD JUST
4 HAVE TWO MINUTES TO CONFER WITH MY CLIENT.

5 THE COURT: ABSOLUTELY.

6 MR. LUCEY: YOUR HONOR, AS MR. FAZIOLI
7 AND MR. FONG WERE TALKING I WAS KIND OF JUST
8 THINKING THROUGH THE LAST, THE COURT'S QUESTIONING
9 OF MR. FINE, I THINK IT MIGHT BE HELPFUL TO PUT HIM
10 BACK ON THE STAND, I HAVE NOT CONFERRED WITH HIM
11 OBVIOUSLY, I THINK IT WOULD BE APPROPRIATE TO HAVE
12 A BRIEF REDIRECT TO MAYBE CLARIFY SOMETHING ABOUT
13 THE COURT'S QUESTIONING ON 263 TO CLARIFY FOR THE
14 RECORD, REALLY CLEAN UP JUST IN TERMS OF THE
15 QUESTIONS YOU POSED TO HIM, IF MR. FONG AGREES.

16 THE COURT: I WILL LET YOU RECALL HIM.

17 MR. LUCEY: 2 OR 3 QUESTIONS AT THE MOST.

18 MR. FONG: THAT'S FINE, YOUR HONOR.

19 YOUR HONOR, I CAN REPRESENT TO THE COURT
20 THAT MR. HU WOULD NOT BE TESTIFYING. I DO NOT
21 INTEND TO PUT ON ANY LIVE WITNESSES. I SUSPECT
22 THAT MY PART OF THE CASE WILL BE MAYBE -- LESS THAN
23 HALF AN HOUR, YOUR HONOR. IT'S MAINLY THE
24 PUBLICATION OF CERTAIN DOCUMENTS

25 THE COURT: MY PUBLICATION OF CERTAIN

1 DOCUMENTS MEANING YOU WANT TO READ FROM --

2 MR. FONG: TO SHOW ON THE MONITOR. BUT
3 THEY ARE NOT LENGTHY DOCUMENTS. THEY ARE NOT THE
4 40-PAGE PPM OR SUBSCRIPTION AGREEMENT.

5 MR. FAZIOLI: I DON'T KNOW, AGAIN I'M NOT
6 SURE WHICH DOCUMENTS THEY ARE REFERRING TO. WE DO
7 HAVE -- WE EXPRESSED A GENERALIZED CONCERN ABOUT
8 DOCUMENTS BEING USED WITHOUT A WITNESS AND IF --

9 THE COURT: I ASSUME THESE ARE DOCUMENTS
10 THAT ARE ALREADY IN.

11 MR. FONG: RIGHT. YES. I'M SORRY
12 YOUR HONOR IF I DIDN'T MAKE THAT CLEAR.

13 THESE ARE -- I MEAN THE PRIMARY DOCUMENTS
14 WOULD BE THE CHECK THAT IS WE TALKED ABOUT EARLIER
15 TODAY.

16 MR. FAZIOLI: I THINK THE CHECKS COULD
17 BE --

18 MR. LUCEY: THEY COULD COME INTO
19 EVIDENCE.

20 MR. FAZIOLI: THAT SORT OF RELATES TO OUR
21 CONCERN ABOUT THE PROBATIVE VALUE OF JUST FREE
22 FLOWING CHECKS ABSENT TESTIMONY WITH THE DEFENDANT
23 OR THE PEOPLE THE CHECKS WERE DIRECTED TO.

24 THE COURT: I THINK HE COULD SAY THE
25 PARTIES HAVE STIPULATED THAT THESE ARE CHECKS THAT

1 WERE WRITTEN IN THE ORDINARY COURSE OF BUSINESS AND
2 PUT IT UP AND NOT SAY ANYTHING MORE.

3 MR. FAZIOLI: I GUESS, YES, IF THE COURT
4 IS INCLINED TO DO THAT, THEN YES, HE COULD DO THAT.
5 I SUPPOSE HE COULD DO THAT BEFORE THE CLOSINGS ON
6 WEDNESDAY IF THAT'S WHAT THE COURT DECIDES.

7 THE COURT: MAYBE WE WILL EVEN HAVE TIME
8 TODAY. I DON'T KNOW.

9 MR. FONG: SURE.

10 THE COURT: OKAY. WHY DON'T WE COME BACK
11 IN -- WELL, I DON'T KNOW, WE TOOK OUR BREAK.

12 MR. FAZIOLI: THANK YOU, YOUR HONOR.

13 MR. LUCEY: THANK YOU.

14 (WHEREUPON A RECESS WAS TAKEN.)

15 THE COURT: MR. LUCEY, YOU INDICATED YOU
16 HAVE A COUPLE OF MORE QUESTIONS.

17 MR. LUCEY: I DID, YOUR HONOR. JUST
18 REFLECTING ON THE COURT'S QUESTIONING OF MR. FINE.
19 SO MR. FINE, I DO RECALL AGENT FINE TO THE STAND.

20 THANK YOU, YOUR HONOR.

21
22 **FURTHER REDIRECT EXAMINATION BY MR. LUCEY**

23
24 BY MR. LUCEY:

25 Q. AGENT FINE YOU UNDERSTAND YOU ARE STILL UNDER

1 OATH?

2 A. YES.

3 Q. JUST TO FOLLOW UP ON THE COURT'S QUESTIONS TO
4 YOU AT THE VERY END, THE COURT WAS ASKING QUESTIONS
5 REGARDING YOUR ENTRIES ON EXHIBIT 263, THE VERY
6 FIRST CHART REVIEWED REGARDING BOB LIN'S FIRST
7 HUNDRED THOUSAND DOLLAR INVESTMENT AND THE
8 FEBRUARY 8TH, 2005?

9 A. YES.

10 Q. THE COURT WAS ASKING QUESTIONS REGARDING THE
11 CHECK CARD PURCHASES THAT WERE REFERENCED THERE?

12 A. YES.

13 Q. YOU INDICATED IN YOUR TESTIMONY IN RESPONSE TO
14 THE COURT'S QUESTIONS REGARDING CHECKS YOU REVIEWED
15 ALL CHECKS THAT WERE AVAILABLE FOR THE BANK,
16 CORRECT?

17 A. THAT'S CORRECT.

18 Q. JUST SO WE ARE CLEAR FOR THE RECORD, IN REGARD
19 TO THE FIRST WIRE ON FEBRUARY 8TH AND THE SECOND
20 WIRE ON FEBRUARY 23RD, 2005, THOSE ARE THE EXHIBITS
21 THAT ARE REFERENCED FROM 263 THROUGH 267, AGENT
22 FINE?

23 A. YES.

24 Q. DID YOU LOOK AT ALL AVAILABLE DOCUMENTS
25 PRODUCED BY THE BANK OF AMERICA IN REGARD TO 6581

1 AS PRODUCED BY THE BANK FOR THAT TIME FRAME?

2 A. YES.

3 Q. AND THAT INCLUDED WHAT, ACCOUNT STATEMENTS?

4 A. YES.

5 Q. AND IT ALSO INCLUDED CHECKS OVER \$10,000?

6 A. IT DID.

7 Q. BUT NOT CHECKS SMALLER THAN THAT AMOUNT?

8 A. THERE MAY BE A COUPLE, BUT GENERALLY, NO.

9 Q. AND FOR ALL THE CHECKS YOU REVIEWED, AND THAT
10 WERE AVAILABLE TO YOU FROM THE BANK FOR THE ACCOUNT
11 6581 FOR THE PERIOD FOR MARCH IN OR ABOUT
12 FEBRUARY 2005, WHICH WOULD BE INCLUSIVE OF YOUR
13 CHARTS AND DAILY BALANCES THAT WENT ALL THE WAY UP
14 TO MARCH 4TH, 2005, NONE OF THE DOCUMENTS YOU
15 LOOKED AT APPEARED TO SHOW MONEY GOING TOWARDS
16 INVESTMENT OR SECURITIES?

17 A. THAT'S CORRECT.

18 Q. NOW JULY 2005, BY CONTRAST, WERE ADDITIONAL
19 DOCUMENTS AVAILABLE TO YOU FOR REVIEW?

20 A. YES.

21 Q. THAT INCLUDED A LARGER NUMBER OF CHECKS WERE
22 MADE AVAILABLE?

23 A. THAT'S CORRECT.

24 Q. AND IN FACT, AS YOU UNDERSTAND IT THE BANK
25 PRODUCED ALL CHECKS AVAILABLE FOR THAT PERIOD?

1 A. I THINK IT WAS ALL, IF NOT MAYBE MISSING ONE.

2 Q. VIRTUALLY ALL?

3 A. VIRTUALLY ALL.

4 Q. AND AGAIN, HAVING LOOKED AT ALL THE DOCUMENTS
5 BANK OF AMERICA PRODUCED FOR THE ACCOUNT PERIOD IN
6 OR ABOUT BOB LIN'S THIRD WIRE ON JULY 6TH, 2005,
7 DID YOU SEE ANY INDICATION OF ANY OF THOSE MONEYS
8 AS IT LEFT THE ACCOUNT GOING TOWARDS INVESTMENTS OR
9 SECURITIES?

10 A. I SAW NO INDICATION.

11 MR. LUCEY: NO FURTHER, QUESTIONS,
12 YOUR HONOR.

13 THE COURT: ALL RIGHT. YOU MAY STEP
14 DOWN.

15 MR. FAZIOLI: YOUR HONOR, THE
16 UNITED STATES CALLS ANTHONY POLLACE.

17 THE COURT: ALL RIGHT.

18

19 **ANTHONY POLLACE,**

20 BEING CALLED AS A WITNESS ON BEHALF OF THE
21 PLAINTIFF, HAVING BEEN FIRST DULY SWORN, WAS
22 EXAMINED AND TESTIFIED AS FOLLOWS:

23 THE WITNESS: YES, I DO.

24 THE CLERK: PLEASE STATE YOUR FULL NAME
25 FOR THE RECORD AND SPELL YOUR LAST NAME.

1 THE WITNESS: MY NAME IS ANTHONY VINCENT
2 POLLACE. IT'S P-O-L-L-A-C-E.

3 THE CLERK: THANK YOU.
4

5 **DIRECT-EXAMINATION BY MR. FAZIOLI**
6

7 BY MR. FAZIOLI:

8 Q. MR. POLLACE, GOOD AFTERNOON. WHERE DO YOU
9 LIVE?

10 A. I LIVE IN SARATOGA, DO YOU WANT THE ADDRESS?

11 Q. IT'S NOT NECESSARY. HOW LONG HAVE YOU LIVED
12 IN CALIFORNIA?

13 A. ABOUT 60 YEARS.

14 Q. AND WHAT -- CAN YOU SUMMARIZE FOR THE JURY
15 YOUR EDUCATIONAL BACKGROUND?

16 A. I HAVE A BACHELOR OF SCIENCE DEGREE IN FINANCE
17 AND ACCOUNTING FROM GOLDEN GATE UNIVERSITY.

18 Q. WHAT DO YOU DO FOR A LIVING?

19 A. I AM A CONSULTING CHIEF FINANCIAL OFFICER.

20 Q. AND WHEN YOU SAY, WHAT DOES IT MEAN TO BE A
21 CONSULTING CHIEF FINANCIAL OFFICER?

22 A. I TYPICALLY EMPLOY ON A CONSULTING BASIS WITH
23 COMPANIES THAT ARE LOOKING FOR HELP IN FINANCIAL
24 MANAGEMENT. THERE HAVE BEEN FROM TIME TO TIME I'VE
25 TAKEN ON PERMANENT POSITIONS AS A CFO AS WELL.

1 Q. GENERALLY PLEASE EXPLAIN FOR THE JURY WHAT
2 DOES A CHIEF FINANCIAL OFFICER DO FOR A COMPANY?

3 A. THEY HELP MANAGE ADMINISTRATIVELY THE
4 FINANCIAL CONDITION OF A COMPANY, THE ACCOUNTING,
5 THE REPORTING, IF THERE'S AN IPO INVOLVED THEY WORK
6 WITH WALL STREET AND DO PUBLIC OFFERINGS,
7 ET CETERA, VENTURE CAPITAL WORK AS WELL.

8 Q. DOES A CHIEF FINANCIAL OFFICER OF A COMPANY
9 OFTEN REVIEW THAT COMPANY'S FINANCIAL STATEMENTS?

10 A. YES.

11 Q. AND DOES THE CHIEF FINANCIAL OFFICER OF A
12 COMPANY OFTEN MAKE PUBLIC STATEMENTS OR IS THE
13 PUBLIC FACE OF A COMPANY'S FINANCES?

14 A. SOME CHIEF FINANCIAL OFFICERS DO. IF THE
15 COMPANY IS PUBLIC, THEY DO.

16 Q. WHAT TYPES OF COMPANIES HAVE YOU SERVED AS A
17 CHIEF FINANCIAL OFFICER FOR?

18 A. LET'S SEE, LITTON INDUSTRIES, COMPANIES TIE
19 TECHNOLOGY COMPANIES, PREDOMINANTLY LOCATED IN AND
20 ABOUT SILICON VALLEY. MEDICAL DEVICE COMPANIES.
21 INTERNET COMPANIES.

22 Q. AND I THINK YOU MENTIONED YOU HAD BEEN A CFO
23 PART TIMES AND OTHER TIMES FULL TIME; IS THAT
24 CORRECT?

25 A. THAT'S CORRECT.

1 Q. CAN YOU EXPLAIN TO THE JURY HOW IT IS YOU CAME
2 TO BE CFO PART TIME, FOR EXAMPLE?

3 A. FOR WHICH COMPANY.

4 Q. JUST IN GENERAL. HOW DID YOU BECOME A CFO
5 EITHER PART TIME OR FULL TIME THROUGH A COMPANY?

6 A. EITHER THROUGH CONTACTS, BOARD MEMBERS I'VE
7 WORKED WITH IN THE PAST. I WAS ALSO A PARTNER IN A
8 FIRM CALLED DAVID POWELL INCORPORATED. THEY WERE
9 UP IN -- 3,000 SAND HILL ROAD WHERE A GREAT MANY
10 VENTURE CAPITALISTS RESIDE. AND WE WOULD
11 ESSENTIALLY RENT A CFO, IF YOU WILL. WE WOULD GO
12 INTO COMPANIES AND PERFORM DUTIES AS A CHIEF
13 FINANCIAL OFFICER ON A CONSULTING BASIS ON AN
14 AS-NEEDED BASIS.

15 Q. DO YOU KNOW SOMEONE NAMED ALBERT HU?

16 A. YES.

17 Q. HOW DO YOU KNOW HIM?

18 A. I ADMIT ALBERT THROUGH DAVID POWELL I WAS A
19 CONSULTING CFO PART TIME AND I MET, ALBERT THROUGH
20 THE RELATIONSHIP AND I WAS THE ACTING CFO.

21 Q. SO YOU ARE AT DAVID POWELL, CORRECT?

22 A. YES.

23 Q. AND AT SOME POINT YOU BECOME A CHIEF FINANCIAL
24 OFFICER FOR ONE OF ALBERT HU'S BUSINESSES; IS THAT
25 CORRECT?

1 A. THAT'S CORRECT.

2 Q. AND WHICH ONE OF ALBERT HU'S BUSINESSES DID
3 YOU BECOME THE CFO FOR?

4 A. THIS WAS APLEX INCORPORATED.

5 Q. AND WHAT'S THE APPROXIMATE TIME, APPROXIMATE
6 DATE ON WHICH YOU BECAME A CFO FOR APLEX?

7 A. 1998, 1999.

8 Q. OKAY. AND WHAT WAS THE PROCESS BY WHICH YOU
9 BECAME A CFO, THE CFO FOR APLEX? HOW WERE YOU
10 RETAINED?

11 A. I WAS FIRST RETAINED THROUGH DAVID POWELL IN
12 THIS CONSULTING ARRANGEMENT. AND MY DUTY WAS TO
13 HELP APLEX, DUTIES RELATED TO THE CFO.

14 Q. AND WHO WAS THE HEAD OF APLEX?

15 A. ALBERT HU WAS.

16 Q. WHAT TYPE OF BUSINESS WAS APLEX?

17 A. APLEX WAS A RELATIVELY YOUNG COMPANY
18 DEVELOPING A TOOL TO CHEMICAL MECHANICAL
19 PLANARIZATION. THIS WAS A TOOL USED TO POLISH
20 WAFERS IN THE SEMICONDUCTOR INDUSTRY.

21 Q. SO APLEX WAS NOT A HEDGE FUNDS?

22 A. NO IT WAS NOT.

23 Q. IT WAS NOT A VENTURE CAPITAL FIRM?

24 A. NO.

25 Q. WHERE WAS APLEX LOCATED?

1 A. IN SUNNYVALE, CALIFORNIA.

2 Q. WERE YOU A PART TIME OR FULL TIME CFO FOR
3 APLEX?

4 A. I STARTED AS PART TIME, IT BECAME A FULL TIME
5 CFO, PERMANENT.

6 Q. FOR HOW LONG WERE YOU A CFO AT APLEX?

7 A. A COUPLE OF YEARS. 1998, 1999.

8 Q. AND AT SOME POINT DID YOU STOP BECOMING THE
9 CFO FOR APLEX?

10 A. YES.

11 Q. AND DO YOU RECALL WHEN YOU STOPPED BECOMING
12 THE CFO FOR APLEX?

13 A. PROBABLY 1999, SOME TIME.

14 Q. DO YOU RECALL WHY YOU STOPPED BECOMING THE
15 CHIEF FINANCIAL OFFICER FOR APLEX?

16 A. THE COMPANY RAN OUT OF FUNDS AND WAS UNABLE TO
17 CONTINUE FINANCIALLY TO DEVELOP ON THE RESEARCH AND
18 DEVELOPMENT, DEVELOP THE PRODUCT.

19 Q. SO AT THAT POINT YOU STOPPED, YOU WERE NO
20 LONGER THE CFO FOR APLEX?

21 A. THAT'S CORRECT.

22 Q. AFTER YOU STOPPED BEING THE CFO FOR APLEX, DID
23 YOU AGREE TO STAY ON AND ASSIST WITH ANY OTHER
24 COMPANY OR FUND OF ALBERT HU?

25 A. NO.

1 Q. YOU DIDN'T AGREE TO WORK AS A CONTRACTOR FOR
2 ALBERT HU?

3 A. NO.

4 Q. YOU DIDN'T AGREE TO WORK AS A DIRECTOR OR
5 OFFICER FOR ANY ENTITY ASSOCIATED WITH ALBERT HU?

6 A. NO.

7 Q. DID YOU HAVE ANY -- AS THE APLEX VENTURE WAS
8 WINDING DOWN, DID YOU HAVE ANY DISCUSSIONS WITH
9 ALBERT HU ABOUT TAKING ON ANY OTHER ROLE IN SAY,
10 ONE OF HIS INVESTMENT FUNDS AFTER YOU LEFT APLEX?

11 A. THERE WAS DISCUSSION, YES.

12 Q. WHAT WAS THAT DISCUSSION?

13 A. ALBERT HAD INVITED ME TO JOIN HIM OR HELP HIM
14 WITH HIS NEW COMPANY ASENQUA.

15 Q. WHAT WAS THE SUBSTANCE OF THOSE DISCUSSIONS?

16 A. TO JOIN HIM AS A CFO.

17 Q. AND WHAT WAS YOUR RESPONSE?

18 A. I SAID THAT I WAS NOT INTERESTED IN DOING IT.
19 I WAS BUSY WITH OTHER THINGS AND MY RESPONSE WAS
20 NO.

21 Q. WERE YOU EVER AT ANY POINT A CFO WITH ASENQUA
22 OR A COMPANY WITH THE NAME ASENQUA?

23 A. NO.

24 Q. AFTER YOU STOPPED BEING THE CFO OF APLEX, DID
25 YOU HAVE ANY ADDITIONAL COMMUNICATIONS WITH ALBERT

1 HU?

2 A. YES, I DID.

3 Q. WHAT WERE SOME OF THOSE COMMUNICATIONS?

4 A. ALBERT HAD, THROUGH HIS COMPANY, ASENQUA, WAS
5 PLACING INVESTMENTS IN VARIOUS COMPANIES. AT THAT
6 TIME I WAS THE CFO FOR A COMPANY CALLED MANY ONE
7 NETWORKS AND I INVITED ALBERT TO MEET OUR CEO AT
8 MANY ONE NETWORKS AND OFFER AN OPPORTUNITY FOR
9 ASENQUA TO INVEST FUNDS IN MANY ONE, WHICH ALBERT
10 DID.

11 Q. HOW MUCH DID MR. HU INVEST?

12 A. \$51,000.

13 Q. AND DO YOU RECALL WHAT TIME FRAME THIS WAS?

14 A. PROBABLY, 2002.

15 Q. OKAY. SO AFTER 2002, SAY 2003 TIME FRAME,
16 WERE YOU RETAINED IN ANY CAPACITY BY ALBERT HU?

17 A. NO.

18 Q. HOW ABOUT 2004 TIME FRAME?

19 A. NO.

20 MR. FAZIOLI: YOUR HONOR MAY I APPROACH
21 THE WITNESS?

22 THE COURT: SURE.

23 Q. THERE'S A NUMBER OF DOCUMENTS ADMITTED INTO
24 EVIDENCE. THE FIRST DOCUMENT I WANT TO SHOW YOU IS
25 GOVERNMENT EXHIBIT 63. AND I WOULD LIKE TO DRAW

1 YOUR ATTENTION TO THE BOTTOM OF GOVERNMENT
2 EXHIBIT 63. THERE ARE LITTLE NUMBERS AT THE
3 BOTTOM. BATES NUMBERS HU. DO YOU SEE THAT?

4 A. YES.

5 Q. I WOULD LIKE TO DRAW YOUR ATTENTION TO PAGE 34
6 AT THE BOTTOM. HU1026A. DO YOU SEE THAT?

7 A. YES. LET ME GET TO PAGE 34. I SEE IT. I
8 HAVE IT.

9 Q. MS. BURNEY, CAN YOU PLEASE HIGHLIGHT THE TOP
10 PORTION OF THAT DOCUMENT.

11 SO MR. POLLACE, DO YOU SEE THE PAGE IN
12 EXHIBIT 63, HU1026 A.

13 A. YES.

14 Q. IS THERE AN ENTITY AT THE TOP OF THE PAGE?

15 A. YES.

16 Q. WHAT'S THE ENTITY LISTED?

17 A. ASENQUA BETA FUND.

18 Q. AND IS THERE AN ADDRESS THAT'S LISTED AT THE
19 TOP OF THIS PAGE?

20 A. YES.

21 Q. WHAT'S THE ADDRESS THAT'S LISTED?

22 A. 50 CALIFORNIA STREET, SUITE 1500,
23 SAN FRANCISCO, CALIFORNIA, 94111.

24 Q. AND WHAT IS THE DATE ON THIS STATEMENT HERE?

25 A. STATEMENT DATE, JULY 2ND, 2004.

1 Q. AND DO YOU SEE THERE'S AN INDIVIDUAL'S NAME
2 AND AN ADDRESS IN TAIWAN; DO YOU SEE THAT THERE?

3 A. YES.

4 Q. DID YOU PLEASE INDICATE WHO IS THE INDIVIDUAL
5 LISTED THERE ABOVE THE TAIWAN EASE ADDRESS?

6 A. YU-MEI DOONG.

7 Q. DO YOU SEE THERE'S A REFERENCE THERE TO A
8 WIRED IN, DO YOU SEE THAT?

9 A. AN ACCOUNT NUMBER, IS THAT WHAT YOU ARE
10 ASKING?

11 Q. 7-2-04, WIRED IN. DO YOU SEE THAT?

12 A. ON THE CHECK, OKAY, YES. 7-2-2004. WIRED IN.
13 YES.

14 Q. YOU SEE THERE'S AN AMOUNT AFTER THAT?

15 A. YES.

16 Q. AND DO YOU SEE -- WHAT DOES IT INDICATE IS THE
17 AMOUNT WIRED IN ON THIS DOCUMENT?

18 A. \$200,000.

19 Q. NOW YOU SEE THERE ARE TWO NAMES AND SIGNATURES
20 AT THE BOTTOM OF THIS PAGE, CORRECT?

21 A. YES.

22 Q. AND WHO IS LISTED AS THE PRESIDENT OF THE
23 ASENQUA BETA FUND ON THIS PAGE?

24 A. IN PRINTED FORM IT'S ALBERT HU PHD.

25 Q. THEN WHO IS LISTED AS THE CHIEF FINANCIAL

1 OFFICER OF THE ASENQUA BETA FUND?

2 A. ANTHONY POLLACE.

3 Q. AND THERE'S A SIGNATURE ABOVE THAT, CORRECT?

4 A. THERE'S A SIGNATURE ABOVE IT.

5 Q. AS OF THE DATE OF THIS STATEMENT, WITHIN
6 GOVERNMENT EXHIBIT 63 WERE YOU THE CHIEF FINANCIAL
7 OFFICER TO THE ASENQUA BETA FUND?

8 A. NO, I WAS NOT.

9 Q. HAVE YOU EVER BEEN A CHIEF FINANCIAL OFFICER
10 TO THE ASENQUA BETA FUND?

11 A. NO.

12 Q. DID YOU -- IS THAT YOUR SIGNATURE ON THIS
13 PAGE?

14 A. NO.

15 Q. DID YOU GIVE PERMISSION -- HOW DO YOU KNOW
16 IT'S NOT YOUR SIGNATURE?

17 A. IT DOESN'T LOOK LIKE MY SIGNATURE AT ALL AND I
18 DIDN'T SIGN IT.

19 Q. DID YOU GIVE PERMISSION FOR YOUR NAME TO BE
20 USED IN CONNECTION WITH THIS DOCUMENT?

21 A. NO.

22 Q. DID YOU GIVE PERMISSION FOR YOUR NAME TO BE
23 USED IN CONNECTION WITH THE ASENQUA BETA FUND?

24 A. NO.

25 Q. AT THE TIME YOU WORKED AS -- IN THE TIME

1 YOU'VE WORKED AS A CFO FOR ONE OF ALBERT HU'S
2 COMPANIES DID YOU GIVE HIM PERMISSION TO SIGN YOUR
3 NAME TO DOCUMENTS WITHOUT YOUR KNOWLEDGE OR
4 PERMISSION?

5 A. NO.

6 Q. YOU DO YOU HAVE A PRACTICE OF ALLOWING PEOPLE
7 TO SIGN YOUR NAME ON THESE DOCUMENTS WITHOUT YOUR
8 KNOWLEDGE OR PERMISSION?

9 A. NO.

10 Q. WHY NOT?

11 A. GOD, IT'S JUST NOT A GOOD PRACTICE AND I DON'T
12 DELEGATE MY SIGNATURE AUTHORITY EVER TO ANYONE
13 EVER.

14 Q. ALL RIGHT.

15 TAKING A LOOK AT THE SIGNATURE THAT IS
16 UNDER YOUR NAME ON PAGE, THAT IS ABOVE YOUR NAME ON
17 HU126 A GOVERNMENT EXHIBIT 63. IS THAT TYPICALLY
18 THE WAY YOU SIGN YOUR NAME?

19 A. NO.

20 Q. HOW IS IT DIFFERENT?

21 A. I TYPICALLY -- I ALWAYS SIGN MY NAME AV
22 POLLACE.

23 Q. MS. BURNEY COULD YOU PLEASE PUBLISH TO THE
24 JURY WHAT'S BEEN MARKED AS EXHIBIT 260. DO YOU
25 RECOGNIZE WHAT EXHIBIT 260 IS?

1 A. YEAH, THAT LOOKS LIKE A COPY OF MY DRIVER'S
2 LICENSE.

3 Q. IS THAT A COPY OF YOUR SIGNATURE?

4 A. YES.

5 Q. HOW DID YOU SIGN YOUR NAME ON THIS DOCUMENT?

6 A. A.V. POLLACE.

7 Q. THIS NEXT PAGE IS AN APPLICATION DATE OF
8 APRIL 2006, CORRECT?

9 A. THAT'S CORRECT.

10 Q. INFORMATION YOU SUBMITTED TO THE DMV?

11 A. RIGHT.

12 Q. AGAIN HOW DID YOU SIGN YOUR NAME ON THIS
13 DOCUMENT?

14 A. A.V. POLLACE.

15 Q. MS. BURNEY COULD YOU PLEASE CYCLE THROUGH THE
16 REMAINING PICTURES ON THIS. THESE NEXT IMAGES HERE
17 THESE ARE ALL SIGNATURES YOU PROVIDED TO THE DMV?

18 A. YES.

19 Q. AND THIS IS ACTUALLY GOING BACK TO THE EARLY
20 1990'S, CORRECT?

21 A. YES.

22 Q. AND CORRECT ME IF I'M WRONG, BUT YOU ARE
23 SIGNING YOUR NAME AV POLLACE?

24 A. THAT IS CORRECT.

25 Q. DO YOU SIGN YOUR NAME TONY POLLACE ON

1 DOCUMENTS?

2 A. NO.

3 Q. LET'S GO BACK TO GOVERNMENT EXHIBIT 63. I'M
4 NOT GOING TO SHOW EVERY INSTANCE BUT I'M GOING TO
5 ASK YOU TO TAKE A LOOK AT, THERE ARE OTHER
6 INSTANCES OF SIGNATURES ABOVE YOUR NAME ON THIS
7 DOCUMENT. AND I JUST WANT YOU TO STATE FOR THE
8 RECORD WHETHER OR NOT THIS IS YOUR SIGNATURE OR
9 NOT.

10 CAN THE I DRAW YOUR ATTENTION TO THE PAGE
11 AT THE BOTTOM WHICH WOULD BE HU1005A. PAGE 13.

12 A. OKAY. I HAVE PAGE 13.

13 Q. OKAY. AND YOU SEE WITHIN GOVERNMENT
14 EXHIBIT 63 THERE'S A SIGNATURE ABOVE THE NAME
15 ANTHONY POLLACE, DO YOU SEE THAT?

16 A. YES.

17 Q. IS THAT YOUR SIGNATURE?

18 A. NO.

19 Q. DID YOU AUTHORIZE ANYONE TO SIGN YOUR NAME ON
20 THIS DOCUMENT?

21 A. NO.

22 Q. AND AGAIN WE DON'T NECESSARILY HAVE TO SHOW
23 EACH OF THESE ON THE SCREEN BUT DRAWING YOUR
24 ATTENTION TO PAGE HU1007A, TWO PAGES AFTERWARDS.

25 A. I'M LOOKING AT IT.

1 Q. AND LET ME, MS. BURNEY IF YOU DON'T MIND
2 HIGHLIGHTING THIS PAGE, THIS IS THE 14TH PAGE OF
3 THIS DOCUMENT. CAN YOU HIGHLIGHT WHAT IT SAYS AT
4 THE TOP OF THIS DOCUMENT, WITHIN EXHIBIT 63.

5 AND YOU SEE THERE'S NOW A DIFFERENT FUND
6 NAME ON THE TOP OF THIS DOCUMENT HERE ON
7 EXHIBIT 63. DO YOU SEE THAT?

8 A. THERE'S NOT A --

9 Q. DO YOU SEE AT THE TOP, WHAT'S THE NAME THAT'S
10 AT THE TOP?

11 A. FIRESIDE.

12 Q. DO YOU SEE THERE'S A NAME OF A FUND THERE?

13 A. FIRESIDE LS FUND.

14 Q. SO AGAIN, NOW ASKING YOU ABOUT THIS DOCUMENT,
15 IT SAYS FIRESIDE LS FUND. THEN I'M DRAWING YOUR
16 ATTENTION TO THE NEXT PAGE OF THE DOCUMENT, THE
17 SECOND PAGE OF THE ACCOUNT STATEMENT YOU SEE THE
18 STATEMENT DATE DECEMBER 31ST, 2007, DO YOU SEE
19 THAT?

20 A. THE NEXT PAGE OF THE DOCUMENT WHICH WOULD BE
21 PAGE 15?

22 Q. YES. THAT WOULD BE HU1007A.

23 A. OKAY. I'M LOOKING AT IT.

24 Q. OKAY. CAN YOU PLEASE BLOW UP AT THE BOTTOM.
25 AND WHO IS LISTED AS THE CHIEF INVESTMENT OFFICER

1 HERE?

2 A. ALBERT HU PHD.

3 Q. WHO IS LISTED AS THE CHIEF FINANCIAL OFFICER
4 FOR THE FIRESIDE LS FUND?

5 A. ANTHONY POLLACE.

6 Q. WERE YOU AT THAT POINT IN TIME THE CHIEF
7 FINANCIAL OFFICER FOR THE FIRESIDE LS FUND?

8 A. NO.

9 Q. HAVE YOU EVER BEEN THE CHIEF FINANCIAL OFFICER
10 FOR THE FIRESIDE LS FUND?

11 A. NO.

12 Q. DID YOU EVER GIVE PERMISSION FOR YOUR NAME TO
13 ANYONE, DID YOU EVER GIVE PERMISSION TO ANYONE FOR
14 YOUR NAME TO BE USED IN CONNECTION WITH THE
15 FIRESIDE LS FUND?

16 A. NO.

17 Q. SO YOU DIDN'T GIVE ALBERT HU TO SIGN YOUR NAME
18 ON THIS DOCUMENT, CORRECT?

19 A. NO.

20 Q. SO CONTINUING ON AND WE WON'T BLOW EACH OF
21 THESE UP. DO YOU SEE THE NEXT PAGE IT SAYS 16 AT
22 THE BOTTOM HU1008A?

23 A. YES I'M LOOKING AT IT.

24 Q. AND WHO IS LISTED AS THE CHIEF FINANCIAL
25 OFFICER HERE?

1 A. ANTHONY POLLACE.

2 Q. IS THAT YOUR SIGNATURE ON THAT DOCUMENT?

3 A. NO.

4 Q. AGAIN MOVING ON TWO MORE PAGES TO PAGE 18
5 MARKED HU1010A, DO YOU SEE WHO IS LISTED THERE AS
6 THE CHIEF FINANCIAL OFFICER FOR THE FIRESIDE LS
7 FUND?

8 A. ANTHONY POLLACE.

9 Q. DID YOU SIGN THAT DOCUMENT?

10 A. NO.

11 Q. AGAIN, NEXT TWO PAGES HU1012A, DO YOU SEE
12 THAT?

13 A. YES.

14 Q. WHO IS LISTED THERE AS THE CHIEF FINANCIAL
15 OFFICER FOR THE FIRESIDE LS FUND FOR Q4, 2006?

16 A. ANTHONY POLLACE.

17 Q. DID YOU SIGN THAT DOCUMENT?

18 A. NO.

19 Q. SAME QUESTION AS TO HU1014A. THIS IS A
20 FIRESIDE LS FUND STATEMENT DATE SEPTEMBER 30TH,
21 2006. WHO IS LISTED AS THE CHIEF FINANCIAL OFFICER
22 FOR THE FIRESIDE LS FUND?

23 A. ANTHONY POLLACE.

24 Q. DID YOU SIGN THIS DOCUMENT?

25 A. NO.

1 Q. DID YOU SIGN ABOVE YOUR NAME ON PAGE 24 WHICH
2 IS HU1016 ADO YOU SEE THAT?

3 A. I SEE IT.

4 Q. DID YOU SIGN YOUR NAME ON THAT DOCUMENT?

5 A. NO.

6 Q. MOVING ON TO HU1018A, THIS IS A STATEMENT OF
7 ACCOUNT Q1, 2006 TO YU-MEI DOONG AND ABOVE THE
8 DEFENDANT'S NAME YOU SEE THERE'S AN INDIVIDUAL
9 LISTED AS THE CHIEF FINANCIAL OFFICER OF THE
10 FIRESIDE LS FUND. WHO IS LISTED AS THE CHIEF
11 FINANCIAL OFFICER?

12 A. ANTHONY POLLACE.

13 Q. DID YOU SIGN THIS DOCUMENT?

14 A. NO.

15 Q. DID YOU EVER HAVE ACCESS TO THE FINANCIAL
16 RECORDS OF THE FIRESIDE LS FUND?

17 A. NO.

18 Q. MOVING ON TO HU1020A. DID YOU?

19 A. OKAY.

20 Q. WHO IS LISTED ON THIS DOCUMENT AS THE CHIEF
21 FINANCIAL OFFICER OF THE FIRESIDE LS FUND?

22 A. ANTHONY POLLACE.

23 Q. DID YOU SIGN THIS DOCUMENT?

24 A. NO.

25 Q. SAME QUESTION AS TO HU1022 A. WHO IS LISTED

1 AS THE CHIEF FINANCIAL OFFICER FOR THE ASENQUA BETA
2 FUND STATEMENT DATE JUNE 30TH, 2005?

3 A. ANTHONY POLLACE.

4 Q. DID YOU SIGN THIS DOCUMENT?

5 A. NO.

6 Q. SAME QUESTION AS TO HU1023 A. THIS IS THE
7 ASENQUA BETA FUND STATEMENT DATE MARCH 31ST, 2005.
8 WHO IS LISTED HERE AS THE PRESIDENT OF THE ASENQUA
9 BETA FUND?

10 A. ALBERT HU PHD.

11 Q. THERE'S A SIGNATURE ABOVE THAT NAME, CORRECT?

12 A. CORRECT.

13 Q. WHO IS LISTED AS THE CHIEF FINANCIAL OFFICER
14 FOR THE ASENQUA BETA FUND?

15 A. ANTHONY POL.

16 Q. IS THAT YOUR SIGNATURE ON THIS DOCUMENT?

17 A. NO.

18 Q. AGAIN THE NEXT PAGE HU1024 A IS A STATEMENT
19 DATE DECEMBER 31ST, 2004. THIS IS TO YU-MEI DOONG
20 IN TAIWAN, WHO IS LISTED ON THIS DOCUMENT AS THE
21 CHIEF FINANCIAL OFFICER OF THE ASENQUA BETA FUND?

22 A. ANTHONY POLLACE.

23 Q. DID YOU SIGN THIS DOCUMENT?

24 A. NO.

25 Q. DRAWING YOUR ATTENTION TO THE NEXT DOCUMENT

1 HU1025 A. WHO IS LISTED ON THIS DOCUMENT AS THE
2 CHIEF FINANCIAL OFFICER OF THE ASENQUA BETA FUND?

3 A. ANTHONY POLLACE.

4 Q. DID YOU SIGN THIS DOCUMENT?

5 A. NO.

6 Q. AND ON THE NEXT PAGE HU1026 A. STATEMENT DATE
7 JULY 2ND, 2004. WHO IS LISTED AS THE CHIEF
8 FINANCIAL OFFICER FOR THE ASENQUA BETA FUND?

9 A. ANTHONY POLLACE.

10 Q. DID YOU SIGN THAT DOCUMENT?

11 A. NO.

12 Q. MS. BURNEY COULD YOU PLEASE PUBLISH WITHIN
13 EXHIBIT 63, WE'VE GONE THROUGH A NUMBER OF ACCOUNT
14 STATEMENTS. THIS APPEARS TO BE A SLIGHTLY
15 DIFFERENT DOCUMENT. HU001027A. DO YOU SEE THAT.
16 COULD YOU PLEASE HIGHLIGHT THE TOP HALF OF THAT
17 DOCUMENT THROUGH THE SIGNATURES, PLEASE.

18 AND WHAT'S THE NAME OF THE ENTITY THAT'S
19 LISTED AT THE TOP OF THIS PAGE 1027-A

20 A. ASENQUA.

21 Q. THAT'S THE ENTITY ALBERT HU ASKED YOU TO BE
22 THE CFO OF?

23 A. YES.

24 Q. AND YOU TOLD HIM NO?

25 A. YES.

1 Q. CAN YOU SEE WHAT THE DATE IS ON THIS RECEIPT?

2 A. YES.

3 Q. WHAT IS THE DATE ON THIS RECEIPT?

4 A. JULY 2ND, 2004.

5 Q. WHAT DOES IT SAY AFTER THE WORD RECEIPT?

6 A. THIS IS TO CONFIRM THE RECEIPT OF \$200,000 USD
7 FROM MISS YU-MEI DOONG FOR THE ASENQUA BETA FUND ON
8 JULY 2ND, 2004.

9 Q. WHO IS LISTED AS THE PRESIDENT OF THE ASENQUA
10 BETA FUND?

11 A. ALBERT K. HU, PHD.

12 Q. WHO IS LISTED AS THE CHIEF FINANCIAL OFFICER?

13 A. ANTHONY POLLACE.

14 Q. IS THAT YOUR SIGNATURE ON THIS DOCUMENT?

15 A. NO.

16 Q. DID YOU EVER GIVE MR. HU PERMISSION TO SIGN
17 YOUR NAME ON THIS DOCUMENT?

18 A. NO.

19 Q. DID YOU EVER HAVE AN OPPORTUNITY TO CONFIRM
20 THE RECEIPT OF \$200,000 FROM MISS YU-MEI DOONG FOR
21 THE INVESTMENT IN THE ASENQUA BETA FUND ON
22 JULY 2ND, 2004?

23 A. NO.

24 Q. COULD YOU PLEASE BRING UP THE NEXT PAGE IN
25 THIS DOCUMENT. WHAT'S THE BATES NUMBER AT THE

1 BOTTOM OF THAT PAGE?

2 A. 1028 A.

3 Q. NOW, MS. BURNEY CAN YOU PLEASE -- WHAT'S THE
4 NAME OF THIS FUND -- THE NAME LISTED AT THE TOP OF
5 THIS DOCUMENT FOR A FUND?

6 A. AQC FUND.

7 Q. WERE YOU EVER THE CFO FOR THE AQC FUND?

8 A. NO.

9 Q. DRAWING YOUR ATTENTION TO THE NEXT DOCUMENT?

10 THE COURT: I THINK WE ESTABLISHED PRETTY
11 CLEARLY THAT THE TESTIMONY IS THAT HE NEVER SIGNED
12 ANYTHING ON BEHALF OF ASENQUA.

13 MR. FAZIOLI: OKAY. OR THE AQC. OKAY.

14

15 Q. DO YOU EVER HAVE ACCESS TO THE RECORDS OF THE
16 AQC FUND?

17 A. NO.

18 Q. DID YOU EVER GIVE PERMISSION TO HAVE YOUR NAME
19 USED IN CONNECTION WITH THE AQC FUND?

20 A. NO.

21 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS
22 GOVERNMENT EXHIBIT 3.

23 A. OKAY. I GOT IT.

24 Q. DO YOU SEE WHAT ENTITY IS LISTED AT THE TOP OF
25 GOVERNMENT EXHIBIT 3?

1 A. ASENQUA BETA FUND.

2 Q. CAN YOU -- MS. BURNEY CAN YOU PLEASE GO TO THE
3 SECOND PAGE OF GOVERNMENT EXHIBIT 3.

4 DO YOU SEE THERE ARE TWO SIGNATURES THERE
5 FOR THE CHIEF FINANCIAL OFFICER AND THE PRESIDENT
6 OF THE ASENQUA BETA FUND; DO YOU SEE THAT?

7 A. YES.

8 Q. WHO IS LISTED AS THE PRESIDENT OF THE ASENQUA
9 BETA FUND?

10 A. ALBERT HU PHD.

11 Q. DO YOU SEE HOW ON THE FIRST PAGE OF GOVERNMENT
12 EXHIBIT 3 THERE'S AN ADDRESS THERE AND IT'S TO THE
13 FU-YUAN LIN 1996 TRUST DO YOU SEE THAT?

14 A. YES.

15 Q. SO THAT'S THE INDIVIDUAL THE DOCUMENT IS
16 ADDRESSED TO: ON THE SECOND PAGE OF IS THIS
17 DOCUMENT GOVERNMENT EXHIBIT 3 MR. HU IS LISTED AS
18 THE PRESIDENT, WHO IS LISTED AS THE CHIEF FINANCIAL
19 OFFICER FOR THE ASENQUA BETA FUND. WHAT'S THE
20 NAME?

21 A. IT'S ANTHONY POLLACK. P-O-L-L-A-C-K.

22 Q. IS THAT A CORRECT SPELLING OF YOUR NAME?

23 A. NO.

24 Q. BUT THERE'S A SIGNATURE ABOVE THE NAME ANTHONY
25 POLLACK DO YOU SEE THAT?

1 A. YES.

2 Q. IS THAT YOUR SIGNATURE?

3 A. NO.

4 Q. DO YOU HAVE A PRACTICE OF SIGNING FINANCIAL
5 DOCUMENTS ON WHICH YOUR NAME IS MISSPELLED?

6 A. NO.

7 Q. AGAIN QUICKLY GOING THROUGH THERE'S A SERIES
8 OF DOCUMENTS IN FRONT OF YOU GOVERNMENT EXHIBITS
9 34, 5 -- SORRY, 3, 4, 6, 7, 8, 9, 10.

10 SO 3, 4, 6, 7, 8, 9, AND 10. DO YOU SEE
11 THAT?

12 A. YES.

13 Q. AND THERE'S A SIGNATURE ABOVE THE NAME ANTHONY
14 POLLACK ON EACH OF THESE DOCUMENTS, CORRECT?

15 A. NUMBER THREE, YES. EXHIBIT 4, YES.
16 EXHIBIT 6, YES. EXHIBITS SEVEN, YES, AND
17 EXHIBIT 8, YES.

18 Q. EXHIBIT 9 AS WELL, CORRECT?

19 A. YES.

20 Q. EXHIBIT 10 AS WELL?

21 THE COURT: HE'S TESTIFIED THAT HE DIDN'T
22 SIGN ANYTHING AFTER A CERTAIN -- YOU DON'T NEED TO
23 GO THROUGH EVERY SINGLE ONE.

24 BY MR. FAZIOLI:

25 Q. THAT'S NOT YOUR ACTUAL SIGNATURE ON ANY OF

1 THOSE DOCUMENTS, CORRECT?

2 A. NO.

3 Q. ALSO NOT YOUR SIGNATURE ON EXHIBITS 27, 31 AND
4 36?

5 A. 27, NO. 31, NO. 36, NO.

6 Q. OKAY. DRAWING YOUR ATTENTION TO GOVERNMENT
7 EXHIBITS 14 THROUGH 18; DO YOU SEE THAT?

8 A. I DON'T FIND -- WOULD IT BE IN THIS STACK?

9 Q. I WILL APPROACH.

10 Q. DO YOU SEE GOVERNMENT EXHIBIT 14?

11 A. YES.

12 Q. THE STATEMENT DATE ON GOVERNMENT EXHIBIT 14?

13 A. MAY 2ND, 2007.

14 Q. WHO IS LISTED AS THE RECIPIENT UP AT THE TOP?

15 A. VERDIELL FAMILY TRUST.

16 Q. WHO IS LISTED AS THE CHIEF FINANCIAL OFFICER?

17 A. ANTHONY POLLACK.

18 Q. AGAIN JUST FOR THE RECORD YOU NEVER SIGNED
19 THIS DOCUMENT, CORRECT?

20 A. CORRECT.

21 Q. YOU DIDN'T SIGN EXHIBIT 15?

22 A. CORRECT.

23 Q. NOR 16, 17 AND 18, CORRECT?

24 A. CORRECT.

25 Q. I THINK YOU PREVIOUSLY INDICATED THAT YOU DID

1 NOT HAVE A PRACTICE OF ALLOWING OTHER PEOPLE TO
2 SIGN YOUR NAME ON FINANCIAL DOCUMENTS WITHOUT YOUR
3 KNOWLEDGE OR PERMISSION, CORRECT?

4 A. CORRECT.

5 Q. DURING THIS, THE TIME PERIOD OF THE LAST TEN
6 YEARS, WAS IT IMPORTANT TO YOU HOW YOUR NAME WAS
7 BEING USED IN THE LOCAL BUSINESS COMMUNITY?

8 A. SAY AGAIN?

9 Q. IS IT IMPORTANT TO YOU HOW YOUR NAME IS USED
10 IN THE LOCAL BUSINESS COMMUNITY?

11 THE WITNESS: YES.

12 MR. FONG: OBJECTION. RELEVANCE.

13 THE COURT: I THINK WE ARE GETTING A
14 LITTLE BIT FAR AFIELD. HE'S TESTIFIED HE DIDN'T
15 WORK FOR THE COMPANY, DIDN'T SIGN ANY OF THESE.

16 MR. FAZIOLI: NO FURTHER QUESTIONS.

17 THE COURT: MR. FONG, ANY QUESTIONS?

18 MR. FONG: JUST A COUPLE, YOUR HONOR.

19

20 **CROSS-EXAMINATION BY MR. FONG**

21

22 BY MR. FONG:

23 Q. GOOD AFTERNOON, MR. POLLACE, MY NAME IS JERRY
24 FONG AND I REPRESENT ALBERT HU. I JUST HAVE A
25 COUPLE QUESTIONS FOR YOU.

1 WHEN YOU WORKED WITH MR. HU, I BELIEVE
2 THE COMPANY IS CALLED APLEX, RIGHT?

3 A. YES.

4 Q. IN THE COURSE OF, I GUESS TWO YEARS YOU WORKED
5 FOR HIM?

6 A. APPROXIMATELY, YES.

7 Q. IN THE COURSE OF THE TWO YEARS YOU WORKED WITH
8 MR. HU, THERE WERE MANY OCCASIONS WHICH YOU SIGNED
9 DOCUMENTS THAT YOU GAVE TO MR. HU, RIGHT?

10 A. I'M GUESSING YES. AS A CFO OR CHIEF FINANCIAL
11 OFFICER I WOULD GUESS YES.

12 Q. OKAY. AND AS YOU SIT HERE YOU'RE PRETTY SURE
13 THAT MR. HU WOULD BE FAMILIAR WITH YOUR SIGNATURE;
14 IS THAT CORRECT?

15 A. AGAIN, I'M ASSUMING YES.

16 Q. NOW, IN THE PART OF THE WORK THAT YOU DID WITH
17 MR. HU AT APLEX, THAT INVOLVED ALSO RAISING VENTURE
18 CAPITAL; IS THAT CORRECT?

19 A. THAT IS CORRECT.

20 Q. OKAY. AND YOU'RE AWARE IN THE PERIOD OF TIME
21 THAT YOU WERE THERE APLEX, THROUGH MR. HU WAS ABLE
22 TO RAISE ABOUT \$10 MILLION IN VENTURE CAPITAL; IS
23 THAT CORRECT?

24 A. I'M NOT SURE ABOUT THE AMOUNT, BUT YES. THERE
25 WAS MONEY RAISED, YES.

1 Q. AND WAS IT IN THE RANGE OF ABOUT \$10 MILLION?

2 A. I THINK SO.

3 Q. OKAY. AND AS PART OF YOUR WORK WITH MR. HU,
4 YOU ALSO WORKED WITH LAW FIRMS WHO DID LEGAL WORK
5 FOR APLEX; IS THAT CORRECT?

6 A. YES.

7 Q. OKAY. AND THEY WERE SOME OF THE FAIRLY WELL
8 KNOWN LAW FIRMS IN THE AREA; IS THAT CORRECT?

9 A. THAT'S CORRECT.

10 Q. OKAY. AND NOW, AND MR. HU IN ABOUT 2007 OR
11 EXCUSE ME, 2002, HE INVESTED ABOUT \$50,000 IN A
12 COMPANY CALLED MANY ONE?

13 A. MANY ONE NETWORKS.

14 MR. FONG: THANK YOU. THAT'S ALL I HAVE.

15 MR. FAZIOLI: NO FURTHER REDIRECT,

16 YOUR HONOR.

17 THE COURT: ALL RIGHT. YOU MAY BE
18 EXCUSED. THANK YOU.

19 THE WITNESS: THANK YOU. LEAVE THESE
20 DOCUMENTS UP HERE?

21 THE COURT: PLEASE.

22 MR. FAZIOLI: THE UNITED STATES RESTS,
23 YOUR HONOR.

24 MR. FONG: YOUR HONOR, MAY WE APPROACH
25 FOR ONE SECOND.

1 THE COURT: OKAY.

2 MR. FONG: LIKE I SAID BEFORE, IF I COULD
3 PUT ON MY CASE WEDNESDAY MORNING AND I REPRESENT TO
4 THE COURT THAT IT WOULD NOT TAKE MORE THAN HALF AN
5 HOUR IT SHOULD BE ACTUALLY LESS THAN THAT BUT I
6 WOULD PREFER TO GO OVER MY NOTES AND MAKE SURE I
7 DON'T MISS ANY PARTICULAR DOCUMENTS.

8 THE COURT: ARE YOU REPRESENTING THAT YOU
9 ARE NOT GOING TO GO --

10 MR. FONG: I'M REPRESENTING I'M NOT GOING
11 TO BE CALLING ANY LIVE WITNESSES.

12 AND I WANT TO MAKE SURE I GET ALL THE
13 DOCUMENTS THAT I WANT IN.

14 THE COURT: OKAY. I WILL LET YOU PROPOSE
15 THE DOCUMENTS. BUT I CAN TELL THE JURY THAT THIS
16 CONCLUDES THE LIVE WITNESSES AND THAT WEDNESDAY
17 MORNING THERE MAY BE SOME DOCUMENTS.

18 MR. FONG: THAT'S FINE, YOUR HONOR. THAT
19 WOULD BE GREAT.

20 THE COURT: IS IT DOCUMENTS OR YOU WANT
21 TO PUBLISH THE DOCUMENTS.

22 MR. FONG: PUBLISH THE DOCUMENTS.

23 YOUR HONOR, I COULD DO IT NOW BUT I WANT
24 TO MAKE SURE I HAVE ALL THE DOCUMENTS

25 THE COURT: HOW ABOUT I DO IT NOW WITH

1 THE UNDERSTANDING THAT --

2 MR. FONG: OKAY. THAT'S FINE.

3 MR. LUCEY: YOUR HONOR, SHOULD WE HAVE
4 THE JURY RETURN OR LEAVE, THERE'S DEMONSTRATIVE
5 COPIES WE GAVE THEM OF THE EXHIBITS THEY NEED TO
6 RETURN THOSE BACK TO US OR --

7 THE COURT: IT'S UP TO YOU. THEY CAN
8 KEEP THOSE.

9 MR. LUCEY: IF THEY TOOK NOTES THAT'S
10 FINE. THAT'S FINE. OKAY.

11 THE COURT: ALL RIGHT. MR. FONG.

12 MR. FONG: THANK YOU, YOUR HONOR.

13 LADIES AND GENTLEMEN OF THE JURY, NOW IS
14 THE DEFENSE'S PART OF THE CASE AND I'M HAPPY TO
15 REPORT TO YOU THAT IT SHOULD BE RELATIVELY SHORT.
16 I WOULD SIMPLY LIKE TO PUBLISH FOR YOU TO LOOK AT,
17 CERTAIN DOCUMENTS THAT HAVE ALREADY BEEN ADMITTED
18 INTO EVIDENCE.

19 LET ME START WITH -- THIS IS EXHIBIT 503
20 WHICH IS THE ASENQUA BETA FUND CONFIDENTIAL PRIVATE
21 PLACEMENT MEMORANDUM. ON PAGE 13 OF THAT EXHIBIT
22 THERE'S A HEADING AT THE BOTTOM OF -- I WILL SIMPLY
23 READ IT INTO THE RECORD.

24 IT READS THE HEADING. COUNSEL. NOBLE
25 LAW GROUP LP HAS BEEN RETAINED AS COUNSEL FOR THE

1 FUND, THE MASTER FUND AND THE INVESTMENT MANAGER.
2 MAPLES AND CALDER HAS BEEN RETAINED AS CAYMAN
3 ISLANDS COUNSEL TO THE MASTER FUND.

4 AND IF YOU WILL BEAR WITH ME THEN. ON
5 PAGE 40, OF THE ASENQUA BETA FUND PRIVATE PLACEMENT
6 MEMORANDUM, IT HAS ON PAGE 40 LEGAL ADVISORS, THE
7 NOBLE LAW GROUP.

8 NOW I WOULD LIKE TO PUBLISH FOR YOU TO
9 REVIEW CERTAIN DOCUMENTS THAT THE GOVERNMENT AND
10 THE DEFENSE HAVE STIPULATED MAY COME INTO EVIDENCE
11 AND THE COURT HAS ALREADY RULED THEY ARE ADMISSIBLE
12 AS EVIDENCE.

13 THE FIRST DOCUMENT IS ACTUALLY A -- IT'S
14 PART OF A LARGER DOCUMENT, A BATCH OF DOCUMENTS THE
15 GOVERNMENT ALREADY ADMITTED INTO EVIDENCE ON ITS
16 OWN BUT I HAVE SEPARATED THIS OUT AS EXHIBIT 602,
17 DEFENDANT'S EXHIBIT 602 FOR YOU TO LOOK AT.

18 AND EXHIBIT 602 IS A CHECK FROM THE
19 ASENQUA ACORN LLC DATED FEBRUARY 25, 2005, MADE
20 PAYABLE TO THE ORDER OF NOBLE LAW GROUP FOR
21 \$12,187.50.

22 AND IT'S SIGNED BY AN EMPLOYEE OF THE
23 ASENQUA GROUP. SO CHECK 298, FEBRUARY 25TH, 2005,
24 12,187.50 TO THE NOBLE LAW GROUP.

25 EXHIBIT 603 IS A CHECK, 1002 OUT OF THE

1 WASHINGTON MUTUAL ACCOUNT OF ASENQUA VENTURES
2 MANAGEMENT, LLC, DATED, I BELIEVE THAT IS
3 JULY 25TH, 2006. I'M NOT QUITE SURE IF THAT'S JULY
4 OR SEPTEMBER. IT MIGHT BE -- YEAH.

5 ANY WAY, IT'S MADE PAYABLE TO THE NOBLE
6 LAW GROUP FOR \$512.50.

7 AGAIN, THE CHECK FROM ASENQUA VENTURES
8 MANAGEMENT, CHECK 1002 FOR \$512.50 MADE PAYABLE TO
9 THE NOBLE LAW FIRM.

10 EXHIBIT 604 WHICH IS ALSO IN EVIDENCE IS
11 CHECK 1003 FOR \$1,900 OUT OF THE ASENQUA VENTURES
12 MANAGEMENT WASHINGTON MUTUAL ACCOUNT PAYABLE TO THE
13 NOBLE LAW FIRM. SO -- THE CHECK IS 1003 IT'S IN --
14 LOOKS LIKE IT'S SEPTEMBER 25TH, 2006, \$1,900 FROM
15 THE NOBLE LAW FIRM TO ASENQUA VENTURES MANAGEMENT.
16 THAT'S EXHIBIT 604.

17 EXHIBIT 604-A, AS IN APPLE, IS A CHECK,
18 ANOTHER CHECK FROM ASENQUA VENTURES MANAGEMENT LLC.
19 THE CHECK NUMBER IS 1011 AND IT'S DATED
20 DECEMBER 4TH, 2006, AND IT'S FOR \$2,500 MADE
21 PAYABLE TO NOBLE LAW GROUP.

22 NOW I WANT TO PUBLISH FOR YOU THE TWO
23 PAGES, ONLY TWO PAGES OF THE FIRESIDE LS FUND
24 PRIVATE PLACEMENT MEMORANDUM.

25 ON PAGE -- THIS IS THE FIRESIDE LS FUND

1 CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM AND THIS
2 HAS ALREADY COME INTO EVIDENCE AS PLAINTIFF'S
3 EXHIBIT 12.

4 ON PAGE 13 OF EXHIBIT 12 THE BOTTOM OF
5 THE PAGE, THE LAST PARAGRAPH READS THE HEADING,
6 COUNSEL. TO THE RIGHT IT READS, PILLS BURY WIN 31
7 HAS BEEN RETAINED AS COUNSEL FOR THE FUND, THE
8 MASTER FUND AND THE INVESTMENT MANAGER. MAPLES AND
9 CALDER HAS BEEN RETAINED AS CAYMAN ISLAND COUNSEL
10 TO THE MASTER FUND.

11 SO COUNSEL PILSBURY WINTHROP. AND THIS
12 IS FOR THE FIRESIDE PRIVATE PLACEMENT MEMO.

13 THEN ON PAGE 40, THE LAST PAGE OF
14 EXHIBIT 12, THE PRIVATE PLACEMENT MEMO, THE LAST
15 ENTRY READS LEGAL ADVISORS. PILSBURY WINTHROP
16 SHAW, PITTMAN LLP, WITH THE SAN FRANCISCO ADDRESS.

17 NOW KEEP THAT IN MIND. THE NEXT DOCUMENT
18 I'M GOING TO PUBLISH FOR YOU IS DEFENDANTS 605.
19 AND YOU WILL OF COURSE BE ABLE TO LOOK AT THESE
20 EXHIBITS AFTER CLOSING ARGUMENTS.

21 EXHIBIT 605 IS A CHECK DATED AUGUST 10TH
22 2006, CHECK 1038 FROM ASENQUA VENTURES MANAGEMENT
23 LLC FROM THIS WASHINGTON MUTUAL BANK ACCOUNT MADE
24 PAYABLE TO PILSBURY WINTHROP, I CAN'T READ THE
25 LAST -- PITMAN, \$8,000.

1 THE NEXT DOCUMENT I SHOULD SAY IS
2 DEFENDANT'S EXHIBIT 606. DEFENDANT'S EXHIBIT 606
3 IS ANOTHER CHECK PAYABLE FROM ASENQUA VENTURES
4 MANAGEMENT OUT OF ITS WASHINGTON MUTUAL BANK
5 ACCOUNT TO THE LAW FIRM OF PILSBURY WINTHROP FOR
6 \$6,000 DATED AUGUST 14, 2006. CHECK 1087 -- 37 OR
7 87 -- 37. FOR \$6,000 FROM ASENQUA VENTURES
8 MANAGEMENT TO PILSBURY LAW FIRM.

9 AND THEN THE LAST CHECK OR LAST DOCUMENT
10 IS DEFENDANT'S EXHIBIT 607. DEFENDANT'S
11 EXHIBIT 607. IT IS A CHECK NUMBER 1042. IT'S FROM
12 ASENQUA MANAGEMENT LLC OUT OF THE WASHINGTON MUTUAL
13 ACCOUNT DATED OCTOBER 15, 2006. FOR \$15,000.
14 \$15,000 EVEN THOUGH THE NUMERAL IS HARD TO READ YOU
15 CAN SEE \$15,000 FROM ASENQUA VENTURES MANAGEMENT
16 LLC OUT OF ITS WASHINGTON MUTUAL ACCOUNT, PAY TO
17 THE ORDER OF PILSBURY WINTHROP SHAW AND PIT MAN, A
18 CHECK FOR \$15,000 CHECK NUMBER 1042.

19 YOUR HONOR THAT'S ALL THE DOCUMENTS I
20 WISH TO PUBLISH AT THIS POINT. THANK YOU.

21 THE COURT: SO BOTH SIDES REST SUBJECT TO
22 YOUR REVIEW OF THE DOCUMENTS.

23 MR. FONG: YES, YOUR HONOR.

24 MR. FAZIOLI: YES, YOUR HONOR.

25 THE COURT: ALL RIGHT.

1 SO THAT WILL CONCLUDE THE EVIDENCE IN THE
2 CASE.

3 WHAT WE ARE GOING TO DO IS I HAVE TO GO
4 OVER WITH THE ATTORNEYS THE LEGAL INSTRUCTIONS,
5 ONCE THE CASE HAS BEEN COMPLETED IT'S MY OBLIGATION
6 TO GO OVER WITH THEM THE INSTRUCTIONS I INTEND TO
7 GIVE YOU. SO TO AVOID YOUR HAVING TO POSSIBLY WAIT
8 TOMORROW WHILE WE DID SOME OF THAT, I'M GOING TO
9 HAVE YOU COME IN WEDNESDAY AND WE WILL HAVE CLOSING
10 ARGUMENTS AND INSTRUCTIONS ON WEDNESDAY AND THE
11 CASE WILL BE YOURS AND YOU CAN DELIBERATE STARTING
12 WEDNESDAY.

13 AND YOU WILL NOT NEED TO BE HERE
14 TOMORROW. SO WITH THAT YOU ARE EXCUSED AND WE WILL
15 SEE YOU WEDNESDAY MORNING AT 8:30.

16 (WHEREUPON, THE FOLLOWING PROCEEDINGS
17 WERE HELD OUT OF THE PRESENCE OF THE JURY:)

18 THE COURT: WHAT'S YOUR PLEASURE IN
19 MEETING TOMORROW? I CAN DO IT ANY TIME, OBVIOUSLY
20 BECAUSE WE HAVE THE TIME SET ASIDE. SO IF YOU WANT
21 TO COME AT 8:30 THAT'S FINE. IF YOU WANT TO COME
22 AT NINE, THAT'S FINE.

23 MR. LUCEY: YOUR HONOR, IF I COULD MAKE A
24 SUGGESTION. PERHAPS IT MIGHT SERVE THE COURT IF
25 COUNSEL CAN MEET PRIOR TO COMING TO COURT AND SEE,

1 I DON'T THINK WE HAVE ACTUALLY GONE THROUGH AND
2 HASHED OUT WHERE WE AGREE OR DISAGREE. SO PERHAPS
3 WE COULD DO THAT FIRST.

4 THE COURT: WELL, I HAVE THE INSTRUCTIONS
5 ESSENTIALLY DONE. I NEED TO CLEAN UP A COUPLE OF
6 THINGS. I COULD E-MAIL THEM TO YOU OR YOU COULD
7 JUST PICK THEM UP TOMORROW MORNING AND GO OVER
8 THEM. I DO THINK IT MAKES SENSE FOR YOU TO MEET.

9 MR. FAZIOLI: I THINK YOU COULD E-MAIL
10 THEM. OR YOU COULD GIVE IT TO US IN THE MORNING.

11 THE COURT: I WILL E-MAIL THEM.

12 MR. FONG: I APPRECIATE THAT YOUR HONOR.

13 THE COURT: GIVE YOUR E-MAILS TO MISS
14 GARCIA, WHAT TIME DO YOU WANT TO MEET?

15 MR. FONG: MAY I SUGGEST YOUR HONOR THAT
16 PERHAPS COUNSEL AND I CAN MEET AT 9:00 THEN WE CAN
17 CONVENE IN THE COURT AT 10:00.

18 THE COURT: SOUNDS FINE TO ME.

19 MR. LUCEY: THANK YOU, YOUR HONOR.

20 MR. FAZIOLI: AND A VERDICT FORM,
21 YOUR HONOR?

22 THE COURT: I WILL DO ONE OF THOSE TOO.

23 MR. FAZIOLI: OKAY.

24 MR. LUCEY: YOUR HONOR, ONE OTHER CLEAN
25 UP THING OUT OF AN ABUNDANCE OF CAUTION IN TERMS OF

1 THE ISSUES WITH THE RECORD.

2 SO WE -- YOUR HONOR, LET ME CHECK WITH
3 MR. FONG FIRST THEN WE WILL ADDRESS THE COURT
4 (OFF-THE-RECORD DISCUSSION.)

5 MR. LUCEY: OKAY. YOUR HONOR, JUST
6 MAKING CLEAR FOR THE RECORD WE CONFERRED WITH
7 MR. FONG, THIS GOES BACK TO ONE OF OUR EARLIER
8 MATTERS. MR. FONG HAS NO OBJECTION TO AT THIS
9 POINT THE JURY HAS RETAINED EACH OF THEM THE
10 EXHIBITS 263 TO 272 PRIOR TO THEIR DELIBERATIONS
11 BEGINNING. THE COURT THAT WAS MY UNDERSTANDING
12 THEY STILL HAVE THEM.

13 MR. LUCEY: FAIR ENOUGH. MAKE SURE IT'S
14 CLEAR FOR THE RECORD THAT THERE'S NO OBJECTION.

15 MR. FONG: THAT'S FINE.

16 MR. FAZIOLI: YOUR HONOR, ONE LAST THING.
17 I DON'T KNOW IF THE COURT WOULD CONSIDER IT
18 CONSTRUCTIVE FOR, TO ASK THE DEFENDANT IF HE'S
19 AWARE HE HAS A RIGHT TO TESTIFY AND HE'S CHOOSING
20 NOT TO, JUST TO CLARIFY FOR THE RECORD.

21 THE COURT: I ASSUMED THAT MR. HU KNOWS
22 HE'S GOT A RIGHT TO TESTIFY AND HAS CHOSEN NOT TO
23 DO SO.

24 MR. FONG: IS THAT YOUR UNDERSTANDING
25 MR. HU.

1 THE DEFENDANT: THANKS FOR ALL THE
2 ATTENTION, BUT NO.

3 MR. FAZIOLI: THE DEFENDANT UNDERSTANDS
4 HE HAS A RIGHT TO TESTIMONY AND HE'S CHOOSING NOT
5 TO TESTIFY. THANK YOU.

6 THE COURT: PLEASE ALSO MAKE SURE YOU GO
7 OVER EXHIBITS THAT HAVE BEEN ADMITTED AND HAVE
8 AGREEMENT ON THAT AND THAT THEY ARE SEPARATED OUT
9 FOR BEING TAKEN TO THE JURY.

10 (WHEREUPON, THE PROCEEDINGS IN THIS
11 MATTER WERE CONCLUDED.)

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CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in dark ink, appearing to read "Summer A. Fisher", is written over a light blue horizontal line.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 6/19/2012